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BACKGROUND AND DESCRIPTION OF PRESENT FEDERAL EXCISE TAXES

PREPARED FOR THE

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HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

BY THE STAFF OF THE

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INTRODUCTION

This pamphlet, prepared by the staff of the Joint Committee on Taxation, provides background information on and a description of present Federal excise taxes. It also shows recent historical trends in Federal excise tax collections and estimated excise tax revenues for fiscal years 1982 and 1983. The pamphlet is intended to provide information on Federal excise taxes for Members of the House Committee on Ways and Means, the Senate Committee on Finance, and other Members of Congress.

Part I of the pamphlet is an overview of Federal excise taxes, with a brief discussion of the types of Federal excises and how some of the excises are earmarked for certain expenditure purposes. Part II is a brief summary of present Federal excise taxes by category.[1] Part III provides historical background on Federal excise taxes, including historical highlights of changes in Federal excises and recent historical trends in Federal excise tax revenues. Part IV is a description of present Federal excise taxes by category: organized into 14 categories, including a category of miscellaneous excises. The description of each excise tax category includes a description of present law taxes, prior legislative changes, and of trust fund expenditures purposes where applicable. Finally, an Appendix provides a schedule of present law excise tax rates by category.

There is no discussion in this pamphlet of alternative excise tax proposals, nor are there staff recommendations. A separate staff pamphlet (JCS–3–82) provides a summary of the Administration's tax proposals (including excise tax proposals) made in the President's fiscal 1983 budget document. The Joint Committee staff, with the staff of the Senate Committee on Finance, has published for the Committee on Finance a pamphlet (JCS–24–82) that contains a description of possible options to increase revenues; several options for excise tax increases or new excises are included in that pamphlet.

[1] For a more detailed summary, see prior Joint Committee staff pamphlet, "Summary of Present Federal Excise Taxes," JCS–18–82, June 7, 1982.

I. OVERVIEW OF FEDERAL EXCISE TAXES

Types of Federal excise taxes

The Internal Revenue Code of 1954, as amended, provides for more than 50 different excise taxes (Code subtitles D and E). In general, these are taxes imposed on the manufacture, sale or use of a particular commodity or service. Occupational taxes and penalty taxes imposed on certain other activities (e.g., prohibited transactions of pension plans and self-dealing transactions of private foundations) are also provided as excise taxes.

Where an excise tax applies to a manufacture, sale or use, the rate of tax is a prescribed dollar amount per commodity unit (a specific excise tax, e.g., 4-cents-per-gallon tax on gasoline), a prescribed percentage of the selling price (an *ad valorem* excise tax, e.g., 5-percent tax on domestic air passenger tickets), or a variant of these basic structures. A partial listing of commodities or services to which an excise tax applies includes diesel fuel, trucks and truck trailers, truck parts, gas guzzling automobiles, tires and tubes, gasoline, coal, fishing equipment, firearms and ammunition, telephone service, airline passenger tickets, certain wagers, certain chemicals, crude oil, alcoholic beverages, cigars, and cigarettes.

Where an excise tax is an occupational tax, the tax is imposed as an annual amount (e.g., $123 per year for wholesale dealing in beer). Such taxes apply to certain occupations involving wagers, alcoholic beverages, and firearms.

Many excise taxes are collected at the manufacturing level or, in the case of commodities produced abroad, upon importation. The rest are collected at the retail or wholesale level.

Excise tax revenues

In fiscal year 1980, Federal excise tax revenues excluding the windfall profit tax amounted to $18.4 billion. Eighty percent of this amount was collected from the six excise taxes imposed on gasoline, distilled spirits, cigarettes, airline passenger tickets, beer, and telephone service. Excise tax revenues in 1980 including the windfall profit tax were $24.3 billion. In fiscal year 1981 (the first full year of windfall profit tax collections), total Federal excise tax revenues were $40.8 billion, of which $23.3 billion was from the windfall profit tax. (For more details on Federal excise tax revenues, see Part III. B., "Recent Trends in Federal Excise Tax Receipts.")

The relative importance of excise taxes (other than the windfall profit tax enacted in 1980) to the Federal budget has diminished over the past two decades. In fiscal year 1960, excise tax collections accounted for 13 percent of net budget receipts. By fiscal year 1970 this figure had declined to 8 percent, and by 1980, to 4 percent. This trend has been influenced by the repeal of numerous excise taxes; by

constant, per-unit rates or reduced tax rates for many other excise taxes; and by the relative growth of payroll and individual income tax revenues over the period.

State governments have relied on excise taxes more heavily than the Federal Government. In 1980, State government revenues from excise taxes on selected products (principally gasoline, tobacco products, alcoholic beverages, insurance premiums and public utility services) and general sales amounted to $67.9 billion. These collections accounted for 32 percent of the own-source revenue of State governments.

Local governments collected $12.1 billion, or 8 percent of their own-source revenue, from excise taxes on selected products and general sales in 1980.

Transfer of revenue to trust funds

In some cases, amounts equivalent to certain excise tax revenues are transferred to a trust fund in order to finance specified trust fund expenditures. The general intent of such trust fund excise taxes is to place the tax burden on persons who are most likely to benefit from such expenditures or on persons whose activities may have necessitated the expenditures.

Trust funds currently financed (in whole or in part) by specified excise tax revenues are the Black Lung Disability Trust Fund, the Hazardous Substance Response Trust Fund, the Highway Trust Fund, the Inland Waterways Trust Fund, the Land and Water Conservation Fund, and the National Recreational Boating Safety and Facilities Improvement Fund. Present law also provides for the future funding of the Deep Seabed Revenue Sharing Trust Fund and the Post-Closure Liability Trust Fund with specific excise tax revenues. Excise tax collections funded the Airport and Airway Trust Fund from July 1, 1970, through September 30, 1980.

II. SUMMARY OF PRESENT FEDERAL EXCISE TAXES [1]

Alcohol Excise Taxes

Excise taxes are levied on the production or importation of three types of alcoholic beverages: distilled spirits, wine, and beer. Also, occupational taxes are imposed on the persons involved with the production or marketing of alcoholic beverages.

Revenues collected from the alcohol excise taxes, most of which are from the tax on distilled spirits, go into the general fund of the Treasury.

A summary of the excise tax rates imposed on alcoholic beverages is presented in table 1 in Part IV.

Tobacco Excise Taxes

Excise taxes are imposed on cigars, cigarettes, and cigarette papers and tubes manufactured in or imported into the United States.

Revenues collected from these tobacco excise taxes, most of which are collected from the tax on small cigarettes, go into the general fund of the Treasury.

A summary of the excise tax rates imposed on tobacco products is shown in table 2 in Part IV.

Highway Trust Fund Excise Taxes

Excise taxes are imposed on gasoline and certain other motor fuels, lubricating oil, trucks and truck trailers, truck parts, tires and tubes, tread rubber, and the use of heavy duty highway vehicles. In general, exemptions from these taxes are provided for nonhighway use.

Under present law, revenues from these highway-related excise taxes are deposited into the Highway Trust Fund through September 30, 1984, after which time these taxes are scheduled to decline (generally to pre-Trust Fund rates) or to expire.

Table 3 in Part IV shows the present schedule of highway-related excise tax rates.

Aviation Excise Taxes

The Airport and Airway Revenue Act of 1970 imposed or increased the aviation excise taxes for a 10-year trust fund period, 1970–1980. The Act also established the Airport and Airway Trust Fund for deposit of the aviation-related excise taxes. On October 1, 1980, most of the aviation excise taxes expired or were reduced, and the deposit of the aviation tax revenues into the Trust Fund was terminated at that time.

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[1] For a more detailed summary of present excise taxes, see prior Joint Committee staff pamphlet, "Summary of Present Federal Excise Taxes, JCS–18–82, June 7, 1982. Also, the Appendix sets forth the specific excise tax rates by category.

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Currently, there is a 5-percent excise tax on domestic air transportation of persons, the revenues from which go into the general fund of the Treasury. There are also taxes applicable to gasoline used by noncommercial aviation and taxes on aircraft tires and tubes; these revenues currently go into the Highway Trust Fund.

Table 4 in Part IV shows the present law aviation excise tax rates, and table 5 shows the prior law Airport and Airway Trust Fund tax rates.

Environmental Excise Taxes

Taxes for Hazardous Substance Response Trust Fund

Excise taxes are imposed on crude oil and certain chemicals, and the revenues from these taxes are deposited into the Hazardous Substance Response Trust Fund. These provisions were enacted in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

The crude oil tax of 0.79 cents per barrel is imposed on the receipt of crude oil at a U.S. refinery, the import of crude oil and petroleum products, and the use or export of domestically produced crude oil (if the tax has not already been paid).

The tax on chemicals is imposed on the sale or use of 42 specified organic and inorganic substances if they are produced in or imported into the United States. The taxable chemicals generally are chemicals that are hazardous or chemicals the use of which may create hazardous products or wastes. The rates vary from 22 cents per ton to $4.87 per ton. (See table 6 in Part IV.)

Tax for Post-Closure Liability Trust Fund

Effective after September 30, 1983, an excise tax of $2.13 per dry weight ton will be imposed on hazardous waste which is received at a qualified hazardous waste disposal facility and which will remain at the facility after its closure. These tax receipts are to be deposited into the Post-Closure Liability Trust Fund. These provisions were enacted in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Black Lung Trust Fund Excise Taxes

A manufacturers excise tax is imposed on domestically mined coal (other than lignite) which is sold or used by the producer of the coal. Amounts equal to the revenues collected from this tax are automatically appropriated to the Black Lung Disability Trust Fund.[1] The coal excise tax was enacted in the Black Lung Benefits Revenue Act of 1977, and was increased in the Black Lung Benefits Revenue Act of 1981.

The rate of tax is $1 per ton for coal from underground mines and 50 cents per ton for coal from surface mines, but the tax cannot exceed 4 percent of the price for which the coal is sold.

Gas Guzzler Tax

An excise tax is imposed on passenger automobiles that fail to meet prescribed fuel efficiency standards. The tax was enacted as part of the Energy Tax Act of 1978, applicable to 1980 and later model year automobiles. The tax is imposed at annually increasing rates through model year 1986. (See table 7 in Part IV for the specific tax rates for model years 1982–1986.) Revenues from the gas guzzler tax go into the general fund of the Treasury.

Crude Oil Windfall Profit Tax

The windfall profit tax is a temporary excise tax on the removal of domestically produced taxable crude oil from the premises on which it was produced. All domestically produced taxable crude oil is classified in one of three tax tiers. The method of determining the tax is essentially the same for all tiers: the tax is equal to the taxable windfall profit multiplied by the applicable tax rate. The taxable windfall profit is generally equal to the selling price of the oil minus an adjusted base price and an adjustment for State severance taxes. The windfall profit on any barrel of crude oil cannot, however, exceed 90 percent of the net income attributable to that barrel. The applicable tax rate differs among the various tiers, as does the adjusted base price. (For the specific tax rates by tier, see table 8 in Part IV.) All base prices are adjusted for inflation, plus an additional 2 percent per year in case of tier 3 oil. Certain kinds of producers are either exempt from the tax, or are eligible for reduced rates of tax on all or part of their production. The tax was enacted in the Crude Oil Windfall Profit Tax Act of 1980.

[1] Misuse of a black lung benefit trust due to self-dealing (sec. 4951), expenditures for an improper purpose (sec. 4952) or excessive contributions to a trust (sec. 4953) by the producer triggers certain penalty excise taxes. Amounts equal to the revenue collected under these penalty taxes, which historically have been very small, are also automatically appropriated to the Black Lung Disability Trust Fund.

The windfall profit tax is scheduled to phaseout over a 33-month period beginning after December 31, 1987, or when cumulative revenues raised by the tax reach $227.3 billion, whichever is later. However, the phaseout will begin no later than January 1991.

Inland Waterways Trust Fund Fuel Tax

A retailers excise tax is imposed on diesel and other liquid fuels used by commercial cargo vessels on 26 specified inland or intracoastal waterways of the United States. The revenues from this tax are deposited into the Inland Waterways Trust Fund. The tax was enacted in the Inland Waterways Revenue Act of 1978.

The present tax rate is 6 cents per gallon, which was first effective on October 1, 1981. On October 1, 1983, the rate is scheduled to increase to 8 cents per gallon. On October 1, 1985, the tax will increase to 10 cents per gallon.

Land and Water Conservation Fund Taxes; National Recreational Boating Safety and Facilities Improvement Fund

Land and Water Conservation Fund

Certain tax and other government receipts are transferred to the Land and Water Conservation Fund. There are no separate taxes imposed specifically for this purpose. The amounts transferred to the fund include, however, an amount equal to the 4-cents-per-gallon tax on gasoline and special fuels derived from such fuels used in motorboats (except for certain amounts transferred to the National Recreational Boating Safety and Facilities Improvement Fund, described below, for fiscal years 1981–1983), and certain other specified nontax receipts.

National Recreational Boating Safety and Facilities Improvement Fund (Boating Safety Fund)

The Secretary of the Treasury is authorized to pay into the Boating Safety Fund amounts equivalent to the motorboat fuel taxes on gasoline and special motor fuels (4 cents per gallon) received on or after October 1, 1980, and before October 1, 1983. The aggregate amount transferred to the Fund during any fiscal year is not to exceed $20 million, and no amount is to be transferred if such transfer would result in increasing the amount in the Fund to a sum in excess of $20 million. Any amount received in the Highway Trust Fund which is attributable to motorboat fuel taxes and which is not transferred from the Highway Trust Fund under these provisions is to be transferred into the Land and Water Conservation Fund.

Sporting Goods and Firearms Excise Taxes

Excise taxes on sporting goods and regular firearms

There are excise taxes imposed on the sale by a manufacturer, producer, or importer of certain fishing equipment (10 percent), bows and arrows and accessories (11 percent), pistols or revolvers (10 percent), other regular firearms (11 percent), and ammunition (11 percent). Revenues attributable to these taxes are distributed in grant programs

to States for certain fish and wildlife restoration and development projects.

A summary of the excise tax rates on sporting goods and regular firearms is shown in table 9 in Part IV.

Excise taxes on non-regular firearms

There are also special excise taxes imposed to regulate machine guns, destructive devices (e.g., bombs, grenades, mines, etc.) and certain other firearms (e.g., shotguns or rifles under a certain length). These consist of annual occupational taxes, transfer taxes, and a making (i.e., producing) tax.

A summary of excise taxes on non-regular firearms is shown in table 10 in Part IV.

Communications (Telephone) Excise Tax

Present law imposes a 1-percent excise tax on amounts paid for local telephone service, toll telephone service and teletypewriter exchange service. Revenues from the tax go into the general fund of the Treasury.

This excise tax is scheduled to terminate with respect to amounts paid pursuant to bills first rendered on or after January 1, 1985.

Wagering Excise Taxes [2]

Under the present law, a two-percent excise tax is imposed on the amount of certain wagers. For this purpose, a wager means: (1) a wager placed with a person who is in the business of accepting wagers on the outcome of a sporting event or contest, (2) a wager with respect to a sporting event or contest placed in a wagering pool conducted for profit, and (3) a wager placed in a lottery conducted for profit (including the numbers and similar types of wagering). The tax does not apply to State-sponsored wagering (e.g., parimutuels and lotteries) and coin-operated gaming devices.

In addition, an occupational tax of $500 per year is imposed on each person who is liable for the two-percent excise tax on wagers and on each person who is engaged in receiving wagers for or on behalf of such person.

Miscellaneous Excise Taxes

Penalty excise taxes

A number of penalty excise taxes are imposed on certain organizations or trusts if they engage in specified transactions or activities, or if they fail to take particular required actions. These excise tax sanctions (at varying rates) are imposed on certain lobbying activities of public charities, certain private foundation activities, and on certain activities of black lung benefit trusts, qualified pension, etc. plans, and real estate investment trusts. Revenues from these penalty excise taxes (except for the penalty taxes on black lung benefit trusts) go into the general fund of the Treasury.

[2] There is a Senate amendment to H.R. 4717, currently pending in a House-Senate conference committee, which would reduce the two-percent tax to 0.25 percent for wagers authorized by State law. Also, the $500 occupational tax would be reduced to $50 in the case of persons authorized by State and local law to accept wagers in a wagering business authorized by State law. Otherwise, the present two-percent and $500 taxes would continue to apply.

Excise tax on private foundation net investment income

There is a 2-percent excise tax imposed on a private foundation's net investment income. A foreign organization which is a private foundation is subject to a 4-percent excise tax on gross investment income derived from sources within the United States. Revenues from this tax go into the general fund of the Treasury.

Deep seabed excise tax

An excise tax is imposed on the removal from the deep seabed of certain hard mineral resources pursuant to a deep seabed permit issued under the Deep Seabed Hard Mineral Resources Act of 1980. Hard mineral resources are mineral nodules lying on or just below the surface of the deep seabeds, which contain one or more specified minerals (manganese, nickel, cobalt, or copper).

The tax is equal to 3.75 percent of 20 percent (or 0.75 percent) of the fair market value of the commercially recoverable minerals removed. Revenues will go into the Deep Seabed Revenue Sharing Trust Fund. (No revenues are currently expected to be received prior to 1988.)

This excise tax will terminate on the earlier of the date on which an international deep seabed treaty takes effect with respect to the United States, or 10 years after the date of enactment of the Tax Act (June 28, 1980).

Excise tax on foreign insurance policies

An excise tax is imposed on certain policies issued by any foreign insurer or reinsurer to or for a U.S. corporation, partnership or individual with respect to risks wholly or partly within the United States, or to or for any foreign person engaged in business within the United States with respect to risks within the United States.

The tax is imposed at the rate of: (1) 4 cents per dollar of premiums paid on the policy of casualty insurance or the indemnity bond; (2) 1 cent per dollar of premiums paid on a policy of life, sickness, or accident insurance, or annuity contract (unless the insurer is subject to tax under sec. 819); and (3) 1 cent per dollar of premiums paid on the policy of reinsurance covering any of the contracts taxable under (1) or (2) above. Revenues from the tax are deposited in the general fund of the Treasury.

III. HISTORICAL BACKGROUND ON FEDERAL EXCISE TAXES

A. Historical Highlights of Federal Excise Taxes

1. Background

Overview

Excise taxes have been levied since the earliest years of the United States Government. A tax on distilled spirits was imposed during George Washington's first term in office in 1791 and was repealed in 1802. The tax was reenacted for the duration of the War of 1812.

Both alcohol and tobacco excise taxes were enacted in 1862 and have been in effect since then in one form or another. Most other excise taxes levied by the Federal Government went into effect initially during World War I (1914–1918), during the 1930's, or during World War II (1941–1945). Some excise taxes were increased during World War II or during the Korean Conflict.

The Highway Trust Fund excise taxes were increased or imposed in 1956. In 1965, many of the retailers and miscellaneous excise taxes were repealed. In 1970, aviation excise taxes were increased or enacted and deposited into the Airport and Airways Trust Fund for a 10-year period, 1970–1980. In 1977, legislation was adopted to impose the excise tax on coal (effective beginning in 1978). Legislation in 1978 enacted the excise tax on gas guzzling automobiles and the excise tax on diesel fuel for commercial inland and intracoastal waterway use. The crude oil windfall profit tax and the environmental excise taxes on crude oil and certain chemicals were enacted in 1980.

Alcohol and tobacco taxes

Both alcohol and tobacco excise taxes were enacted in 1862 and were applied specifically to distilled spirits, beer, wine, cigars, tobacco and snuff. Cigarettes were not taxed separately until 1864. The basic units of taxation that were established then have continued in effect, except that the taxes on pipe and chewing tobacco and snuff were repealed beginning in 1966. The tax rates on distilled spirits and cigarettes were last increased in 1951. The taxes on wine and beer were last increased in 1955.

Retailers excise taxes

Jewelry, fur, toilet preparations (e.g., cosmetics), and luggage were taxed during World War I for the first time. Each tax initially was levied as an *ad valorem* tax on the retail or manufacturers price, and continued as an *ad valorem* tax during the periods of time when in effect through 1965. Each of these taxes was repealed for some period of time during the 1920's or 1930's. All had been reinstated before the start of World War II essentially as retailers excise taxes and were repealed by the Excise Tax Reduction Act of 1965. When they were repealed, most retailers excise taxes were levied at 10 percent of the sales prices.

Manufacturers excise taxes

The major manufacturers (producers) excise taxes currently in effect are the truck and tire taxes and petroleum products taxes; receipts from these taxes are deposited in the Highway Trust Fund.

The taxes on trucks and truck trailers, parts and accessories, tires and inner tubes were enacted in 1917 and 1918, repealed in 1926, and

reimposed in 1932. Receipts from these taxes were transferred to the Highway Trust Fund in 1956. Current truck excise tax rates are higher than the initial rates of 3 to 5 percent. In 1932, excise taxes were placed on gasoline (1 cent per gallon) and lubricating oil (4 cents per gallon), both of which now, with higher tax rates, help finance the Highway Trust Fund.

Other manufacturers excise taxes currently in effect include (1) the gas guzzler tax on the sale of 1982 model year automobiles that have a fuel mileage rating below 18.5 miles per gallon, (2) per-ton taxes on surface and underground mined coal that are deposited in the Black Lung Trust Fund, and (3) *ad valorem* taxes of 10 or 11 percent on fishing equipment, bows and arrows, pistols and revolvers, other firearms, and shells and cartridges.

In 1965, the Excise Tax Reduction Act repealed a major portion of nonhighway-related manufacturers excise taxes that were enacted (or reenacted) for the most part in 1932 or during World Wars I and II. As a result, taxes were removed from the following items: (1) household durables (e.g., refrigerators, air conditioners and electric light bulbs); (2) entertainment and recreational equipment (including radios, television sets, musical instruments, and photographic equipment); and (3) several miscellaneous categories (such as business machines, fountain pens and ballpoint pens, lighters and matches). Most of these taxes were levied at a 10-percent rate on the manufacturers sale price.

The Revenue Act of 1971 repealed the 7-percent excise tax on automobiles and the 10-percent tax on light-duty trucks (10,000 pounds or less gross vehicle weight).

Communications excise taxes

An excise tax on telephone service has been in effect in every year since 1941. In 1973, the rate of tax declined from 10 percent to 9 percent as the first step in a schedule to reduce the tax rate by one percentage point per year until it would expire on January 1, 1982. However, the Omnibus Reconciliation Act of 1980 delayed the scheduled repeal by one year until January 1, 1983; the Economic Recovery Tax Act of 1981 further delayed repeal for two additional years, or until January 1, 1985.

A 10-percent tax on telegraph service, a 10-percent tax on private communications (intercom) service, and an 8-percent tax on wire and equipment service (such as stock quotation and information services) were repealed, effective January 1, 1966.

Taxes on facilities and certain services; miscellaneous items

Taxes on general admissions to movie and stage theaters, cabarets, and club dues and initiation fees were enacted in 1917 and were among the taxes repealed in 1965. Taxes on safe deposit boxes, playing cards (enacted in 1894), coin-operated amusement devices, bowling alleys, and billiard and pool tables also were repealed in 1965. Documentary stamp taxes on bond, stock, and mutual fund issues, transfers of bonds and stocks, and conveyances also were repealed in 1965. An interest equalization tax applied from 1963–1974 on the purchase of certain foreign stocks, bonds and other securities, including government securities. An excise tax still applies to foreign insurers of casualty insurance and indemnity bonds, life insurance, sickness and accident policies, and annuity contracts.

Regulatory taxes

Narcotic drugs and marijuana previously were taxed under regulatory excise taxes. Narcotic drugs included opium, opiates, coca leaves and opium for smoking. These items were taxed by specific amounts per unit of weight. In addition, persons involved in the transfer, production, prescription or research use of narcotic drugs and marijuana paid annual occupational taxes which varied between $1 and $24. These taxes were repealed by the Comprehensive Drug Abuse Prevention and Control Act of 1970, effective in 1971.[1] Taxes on filled cheese, and on processors and dealers in the product, were repealed in 1974. Other regulatory taxes, repealed by the Tax Reform Act of 1976, were levied on white phosphorus matches, process butter, cotton futures, and circulation of certain bank notes.

Regulatory-type excises currently in effect are the occupational, transfer, and making taxes on non-regular firearms (e.g., machine guns, sawed-off shotguns and rifles, destructive devices such as grenades, and certain other weapons).

Wagering taxes

The occupation of accepting wagers has been taxed since 1951 ($500 per year since 1974 and $50 per year before then), as has each wager, except for State-sponsored wagering (e.g., parimutal enterprises and lotteries) and coin-operated gaming devices. The tax on wagers was reduced from 10 percent to 2 percent in 1974. Slot machines and other coin-operated gaming devices were taxed under an annual occupational tax ($250 per year) from 1941–1978.

Other miscellaneous excise taxes

Penalty excise taxes; tax on private foundations.—The penalty excise tax structure for tax-exempt private foundations and the excise tax on private foundation investment income were enacted in the Tax Reform Act of 1969. The Employee Retirement Income Security Act of 1974 (ERISA) enacted excise tax sanctions applicable to qualified pension, etc., plans and other tax-favored retirement savings. Penalty excise taxes imposed on certain lobbying expenditures by public charities and on real estate investment trusts were enacted in the Tax Reform Act of 1976. The excise tax sanctions applicable to black lung benefit trusts were enacted in the Black Lung Benefits Revenue Act of 1977.

Other excise taxes.—Other miscellaneous excise taxes currently in effect include the deep seabed excise tax, enacted in 1980, imposed on certain deep seabed hard minerals, and the excise tax on foreign insurance policies (mentioned above). An excise tax on sugar applied from 1937–1975.

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[1] Public Law 91–513, effective May 1, 1971. The regulation of these narcotic items ("controlled substances") was transferred by the 1970 Act to the Bureau of Narcotics and Dangerous Drugs (now the Drug Enforcement Administration) in the Justice Department.

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2. *Major Excise Tax Legislation, 1956–1981*

Highway Trust Fund (1956)

The Highway Trust Fund was established in 1956 to provide a specific source of financing for the new Interstate Highway System and continuation of other Federal-aid highway programs. Previous Federal highway-aid programs had been financed through the general fund. This Trust Fund was established to make the new highway program self-financing, and the Act initially contained caveats against the Trust Fund's running a deficit or making an inequitable distribution of the tax burden among highway users. The excise tax receipts earmarked for the Trust Fund at its inception, along with the taxes on lubricating oil and truck parts and accessories (added to the Trust Fund in 1966), remain as the present source of trust fund revenue. Under present law, transfer of highway excise tax revenues to the Trust Fund and trust fund expenditure authority will expire after September 30, 1984.[2]

Excise Tax Reduction Act of 1965; automobile and telephone excises

This Act extensively revised the Federal excise tax structure. The Act repealed either outright or on a scheduled basis 4 out of 5 retailers excise taxes, most of the non-trust fund manufacturers taxes, and many of the other excise taxes, so that the remaining excise taxes generally represented user taxes, regulatory taxes, or sumptuary taxes on alcohol and tobacco. The manufacturers excise tax on passenger automobiles and the tax on local and toll telephone service were scheduled to phase out by January 1, 1969, but subsequent revenue needs led to deferral of the phasedowns. The excise taxes on automobiles and light-duty trucks were repealed in 1971. The telephone tax currently is one percent through December 31, 1984, and it is scheduled to expire after that date.

Airport and Airway Trust Fund (1970)

The Airport and Airway Trust Fund was enacted in 1970, and aviation excises were transferred into the Trust Fund from July 1, 1970 through September 30, 1980. The Trust Fund was financed by the receipts from several earmarked taxes, of which the predominant source of revenue was an 8-percent tax on air passenger tickets (currently, 5 percent). The transfer of aviation excise tax revenues to the Trust Fund has not been renewed, but unobligated trust fund balances have been appropriated for certain airway system expenditures for fiscal years 1981 and 1982.[3]

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[2] The President's budget for fiscal year 1983 recommends extending the Highway Trust Fund, with present taxes and rates, beyond fiscal year 1984.

[3] A recommendation to reinstitute the aviation trust fund taxes and specific authorizations from the Trust Fund was included in the President's budget for fiscal year 1983.

On May 12, 1982, the House Committee on Ways and Means reported H.R. 4800 (H. R. Rep. No. 97–510), which would reinstate certain aviation excise taxes and the transfer of the revenues to the trust fund for the period July 1, 1982–December 31, 1983.

Black Lung Disability Trust Fund (1977)

Domestically-mined coal is taxed at $1 per ton on coal from underground mines and 50 cents per ton on coal from surface mines, up to a maximum of 4 percent of the price for which the coal is sold. These rates are double the prior law rates, and were effective on January 1, 1982, in the Black Lung Benefits Revenue Act of 1981. The receipts are deposited in the Black Lung Disability Trust Fund, from which benefit payments are made to certain coal miners (and their survivors) who are totally disabled by pneumoconiosis (i.e., black lung disease) arising out of coal mine employment. The tax on coal and the trust fund originated in the Black Lung Benefits Revenue Act of 1977, effective in 1978).

Inland Waterways Trust Fund (1978)

The Inland Waterways Trust Fund was enacted in 1978 to assist in financing construction and maintenance of both inland and deep draft waterways. A fuels tax (currently, 6 cents per gallon) is imposed on fuels used in a vessel in commercial inland and intracoastal waterway transportation, and these receipts are transferred to the Trust Fund. The tax does not apply to fuel used by deep-draft ocean-going vessels and shallow draft noncargo vessels.

Crude Oil Windfall Profit Tax (1980)

The windfall profit tax on crude oil, which was enacted in the Crude Oil Windfall Profit Tax Act of 1980, applies to domestically produced taxable crude oil. The windfall profit tax was enacted as part of an overall oil policy that included a phaseout of the price controls which had applied to crude oil and most petroleum products since 1971. The tax is designed to capture a portion of the additional revenues accruing to oil producers from decontrol and the general increases in the level of oil prices.

Environmental Excise Taxes and Trust Funds (1980)

As enacted in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, excise taxes are imposed on (1) crude oil, (2) 42 specific organic and inorganic chemical substances, and (3) deposits of hazardous waste at a qualified hazardous waste facility. The first two taxes were effective on April 1, 1981, and are deposited in the Hazardous Substance Response Trust Fund and may be spent for specified purposes related to the release of hazardous substances into the environment. The hazardous waste tax will be effective on October 1, 1983, and receipts will be deposited in the Post-Closure Liability Trust Fund, which will pay for monitoring and maintaining closed waste disposal facilities and will assume liability for damages and cleanup expenses of facilities that meet certain statutory requirements.

B. Recent Trends in Federal Excise Tax Receipts

The following table shows budget receipts from Federal excise taxes for fiscal years 1970, 1975, 1980, and 1981, and the estimated excise tax receipts for fiscal years 1982 and 1983 under present law.

The table divides the excise taxes according to those going into the general fund of the Treasury (Federal funds) and those going into trust funds. General fund excises (excluding the windfall profit tax) increased only slightly from $10.4 billion in fiscal year 1970 to $10.8 billion in fiscal year 1981. Revenue from the crude oil windfall profit tax rose from $6 billion in fiscal year 1980, when the tax was in effect for only part of the year, to $23.8 billion in fiscal year 1981. Trust fund excise taxes increased from $5.4 billion in fiscal year 1970 to $8.8 billion in fiscal year 1980, before declining to $6.7 billion in fiscal year 1981 (as the aviation excise taxes no longer were going into the Airport and Airway Trust Fund after fiscal year 1980).

Total Federal excise tax revenues (excluding the windfall profit tax) increased from $15.7 billion in fiscal year 1970 to $18.9 billion in fiscal year 1980 and declined to $17.5 billion in fiscal year 1981. Including the windfall profit tax, Federal excise tax revenues amounted to $24.3 billion in fiscal year 1980 and $40.8 billion in fiscal year 1981.

Budget Receipts from Excise Taxes for Selected Years, By Fund and By Tax, Fiscal Years 1970–1983

(Millions of dollars)

Excise tax	Actual				Estimated	
	1970	1975	1980	1981	1982	1983
Federal (General) Funds						
Alcohol taxes:						
Distilled spirits	3,445	3,830	3,919	3,819	4,182	4,080
Beer	1,076	1,305	1,545	1,604	1,672	1,644
Rectification tax[1]	25	22	8	(2)	----------	----------
Wines	180	172	211	244	243	245
Liquor occupational taxes	20	22	21	21	21	21
Refunds	−136	−113	−104	−82	−84	−87
Total alcohol taxes	4,610	5,238	5,601	5,606	6,034	5,903

Footnotes at end of table.

Budget Receipts from Excise Taxes for Selected Years, By Fund and By Tax, Fiscal Years 1970–1983—Continued

(Millions of dollars)

Excise tax	Actual				Estimated	
	1970	1975	1980	1981	1982	1983
Federal (General) Funds—Continued						
Tobacco taxes:						
Cigarettes	2,036	2,261	2,403	2,539	2,694	2,622
Cigars	57	51	40	40	40	40
Cigarette papers and tubes	1	1	1	1	1	1
Other	1	1	3	3	3	3
Refunds	-1	−3	−4	−3	−3	−3
Total tobacco taxes	2,093	2,312	2,443	2,581	2,735	2,663
Manufacturers (non-trust fund) excise taxes:						
Gasoline	28	29	31	32	30	30
Passenger automobiles[3]	1,753	----	----	----	----	----
Firearms, shells, and cartridges	33	51	75	97	90	99
Fishing rods, creels, etc.	14	22	34	23	37	40
Pistols and revolvers	7	11	22	27	27	30
Bows and arrows	----	4	6	7	7	7
Gas guzzler tax	----	----	2	(2)	1	1
Windfall profit tax	----	----	5,959	23,290	24,196	21,275
Refunds	−6	−12	−6	−18	−98	−48
Total manufacturers excise taxes	1,829	105	6,122	23,459	24,290	21,434

Other general fund excise taxes:						
General, toll telephone and teletype service	1,470	2,024	1,118	999	796	656
Transportation of persons	251					
Wagering taxes, including occupational taxes	5	6	12	13	16	20
Employee pension plans			3	5	3	3
Sugar tax [4]	113	104				
Coin-operated gaming devices [5]	14	7				
Interest equalization tax [6]	86	2				
Tax on foundations		65	68	90	80	78
Foreign insurance policies	9	19	75	75	86	97
Other (including repealed taxes)	3	1	2	1	1	1
Refunds	−24	−23	−32	−75	−20	−10
Total other general fund excise taxes	1,926	2,204	1,246	1,108	962	845
General fund collections associated with aviation taxes [7]				1,180	1,265	1,458
Undistributed Federal tax deposits and unapplied collections	−106	−460	152	194	143	222
Total Federal (general) fund excise taxes	**10,352**	**9,400**	**15,563**	**34,128**	**35,429**	**32,525**

Footnotes at end of table.

Budget Receipts from Excise Taxes for Selected Years, By Fund and By Tax, Fiscal Years 1970–1983—Continued

(Millions of dollars)

Excise tax	Actual			Estimated		
	1970	1975	1980	1981	1982	1983
Trust Funds						
Highway Trust Fund:						
Gasoline	3,447	4,069	4,011	4,016	3,978	3,928
Trucks, buses,[8] and trailers	700	602	912	664	847	1,184
Tires, inner tubes, and tread rubber	643	797	680	644	653	662
Diesel fuel used on highways	263	402	523	561	575	613
Use tax on certain vehicles	137	221	277	237	264	270
Truck parts and accessories	87	143	253	234	305	338
Lubricating oils	109	100	105	101	105	105
Refunds	−32	−146	−142	−152	−145	−143
Total Highway Trust Fund taxes	5,354	6,188	6,620	6,305	6,582	6,957
Airport and Airway Trust Fund:[7]						
Transportation of persons		779	1,601			
Waybill tax		54	92			
Tax on fuels		54	70			
International departure tax		55	92			
Aircraft registration fees		20	21			
Tires and inner tubes		1	1			
Refunds		−1	−3			
Total Airport and Airway Trust Fund taxes[7]		962	1,874	21		

Black Lung Disability Insurance Trust Fund			272	237	507	612
Inland Waterways Trust Fund				20	58	67
Hazardous Substances Response Trust Fund				128	283	299
Total trust fund excise taxes	**5, 354**	**7, 151**	**8, 766**	**6, 711**	**7, 430**	**7, 935**
Total Excise Taxes	**15, 705**	**16, 551**	**24, 329**	**40, 839**	**42, 859**	**40, 460**

Note: Details may not add to totals because of rounding.

[1] The rectification tax was repealed in the Trade Agreements Act of 1979.

[2] $500,000 or less.

[3] The excise tax on passenger automobiles was repealed in the Revenue Act of 1971.

[4] The excise tax on sugar expired in 1975.

[5] The tax on coin-operated gaming devices was repealed in the Revenue Act of 1978.

[6] The interest equalization tax expired in 1974.

[7] The aviation excise taxes going into the Airport and Airway Trust Fund (July 1, 1970 through September 30, 1980) either expired or were reduced on October 1, 1980. The revenues from the current 5-percent air passenger ticket tax now go into the general fund; and the revenues from the 4-cents a gallon tax on general aviation gasoline and taxes on aircraft tires and tubes now go into the Highway Trust Fund. (The figures for 1982 and 1983 do not include the revenue effects of proposed legislation affecting the aviation excise taxes: neither the Administration proposal nor H.R. 4800 as reported by the House Committee on Ways and Means).

[8] The tax on buses was repealed in the Energy Tax Act of 1978.

Source: The Budgets of the United States Government for Fiscal Years 1972, 1977, 1982, and 1983.

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IV. DESCRIPTION OF PRESENT FEDERAL EXCISE TAXES

A. Alcohol Excise Taxes

Present Law

Overview

Two types of excise taxes are levied on the production or importation of alcoholic beverages. The first type of these taxes is levied on the beverages themselves at different rates for each of three major types of beverage: distilled spirits, wine, and beer. The second type of these taxes is an occupational tax imposed on the persons involved with the production and marketing of alcoholic beverages.

Revenues collected from the alcohol excise taxes, most of which are from the tax on distilled spirits, go into the general fund of the Treasury.

Beverage taxes

The specific excise tax rates for distilled spirits, wines, and beer are shown in table 1, below.

Distilled spirits.—The excise tax on distilled spirits is imposed at a rate of $10.50 on each proof gallon (sec. 5001). A proportionate tax at the same rate is imposed on fractional parts of a proof gallon. For purposes of the tax, distilled spirits are defined as ethyl alcohol, ethanol, or spirits of wine. In general, all products containing distilled spirits are subject to the tax. Included among such products are wines containing more than 24 percent alcohol by volume, imported perfumes, denatured distilled spirits, fruit flavor concentrates, and liqueurs or cordials (secs. 5001–5002).

Wines.—The excise tax on wine is imposed at different rates depending on the alcohol content (by volume) and on whether the wine is sparkling wine (carbonated) or still wine (noncarbonated). Champagne and other sparkling wines are taxed at a rate of $3.40 per wine gallon, and artifically carbonated wines are taxed at $2.40 per wine gallon. Still wines are taxed as follows: 17 cents per wine gallon for wines containing not more than 14 percent alcohol; 67 cents per wine gallon for wines containing more than 14 percent but not more than 21 percent alcohol; and $2.25 per wine gallon for wines containing more than 21 percent but not more than 24 percent alcohol (sec. 5041). A proportionate tax at the same rates is imposed on fractional parts of a wine gallon. Wines containing more than 24 percent alcohol per wine gallon are taxed as distilled spirits.

A special exception to the wine tax is provided for up to 200 gallons per year per household (100 gallons in the case of a household including only one adult) of wine produced for personal and family use and not for sale (sec. 5042).

Beer.—The excise tax on beer is generally imposed at a rate of $9 per barrel containing not more than 31 gallons. A special $7-per-barrel rate is applied to the first 60,000 barrels produced in the United States by a brewer who does not produce more than 2 million barrels of beer during the calendar year (sec. 5051). An exception similar to that included under the tax on wine is included under present law for limited quantities of beer produced for personal and family use and not for sale (sec. 5053).

TABLE 1.—ALCOHOLIC BEVERAGE TAXES

Item (and Code section)	Tax rate
Distilled spirits (sec. 5001)	$10.50 per proof gallon.
Wines (sec. 5041):	
Still wines—	
Up to 14 percent alcohol	17 cents per wine gallon.
14 to 21 percent alcohol	67 cents per wine gallon.
21 to 24 percent alcohol [1]	$2.25 per wine gallon.
Champagne and sparkling wines	$3.40 per wine gallon.
Artificially carbonated wines	$2.40 per wine gallon.
Beer (sec. 5051)	$9.00 per barrel generally.[2]

[1] Wines containing more than 24 percent alcohol are taxed as distilled spirits.
[2] $7 per barrel for certain small brewers.

Collection of beverage taxes.—The taxes on alcoholic beverages are generally imposed on the producer or importer of the beverage at the time the beverage is removed from bonded premises of the appropriate proprietor for consumption or sale or removal from customs custody. Special rules permit tax-free transfers of certain of the beverages (not imported beer) among producers and bonded warehouses, etc., before removal of the beverages for consumption or sale. Additional provisions also permit tax-free withdrawal of one or more of the three types of alcoholic beverages for various specified purposes. Examples of these purposes are used by Federal and State agencies, by certain charitable organizations, removals for export, and use by foreign embassies.

A stamp (or alternate device) must appear on each container of distilled spirits as proof of payment of the tax. In the case of distilled spirits containers of five gallons or less, the stamp generally must be affixed to the container so that the stamp is broken when the container is opened (sec. 5205).

Occupational taxes

In addition to the taxes on alcoholic beverages, certain occupational taxes are imposed on persons involved in the production and marketing of the beverages. These taxes must be paid annually as a condition of doing business. Payment of the taxes is evidenced by a stamp issued by the Secretary of the Treasury. The alcohol occupational taxes are as follows:

(1) $110 a year per brewery, except $55 a year for a brewery producing fewer than 500 barrels of beer annually (sec. 5091);

(2) $55 a year for every manufacturer of stills, and $22 for each still made (sec. 5101);

(3) $255 a year for every wholesale dealer in liquors (sec. 5111(a));

(4) $123 a year for every wholesale dealer in beer (sec. 5111(b));

(5) $54 a year for every retail dealer in liquors (i.e., any dealer whose merchandise is not limited to beer and who is not a limited dealer) (sec. 5121(a));

(6) $24 a year for every retail dealer in beer (sec. 5121(b)); and

(7) $4.50 for each month in which sales are made ($2.20 per month when only sales of beer or wine are made) for every limited retail dealer (i.e., certain fraternal and civic organizations and concessionaires at fairs and carnivals) (sec. 5121(c)).

Legislative History

Beverage taxes

Distilled spirits.—An excise tax was imposed on distilled spirits in 1791 but was repealed in 1802. During the War of 1812, distilled spirits were again subject to tax for a brief period. Since passage of the Act of July 1, 1862, distilled spirits have been continuously subject to tax. The present rate of tax has been in effect since November 1, 1951. The last substantive amendments to the distilled spirits tax were made by Public Law 96–39 (the Trade Agreements Act of 1979,[1] and Public Law 96–598.[2] Public Law 96–39 changed the method of taxing distilled spirits below 100 proof from a wine-gallon method to the proof-gallon method.

Public Law 96–39 also changed the method of taxing wine that is blended with distilled spirits to produce products such as blended whiskeys, cordials, and liqueurs. Under the all-in-bond method enacted by Public Law 96–39, wine used to produce such distilled spirits products is not subject to the wine tax. Instead, the wine is transferred in bond to the distilled spirits plants where it becomes part of the distilled spirits product. The distilled spirits tax is then imposed on the completed product, including the wine component, on a proof-gallon basis. Before enactment of Public Law 96–39, the wine and distilled spirits taxes were imposed on each component before they were combined, and a 30-cents-per-proof gallon rectification tax was imposed on the blended product. (The 30-cents-per-proof gallon rectification tax was repealed by Public Law 96–39.)

To prevent imposing a higher tax on wine blended with distilled spirits under the all-in-bond method than on wine that is not blended with distilled spirits, a credit against excise tax liability for blended whiskeys was enacted in Public Law 96–598. The credit is equal to the difference between the distilled spirits tax that is imposed and the wine tax that would have applied had the blending not occurred.

Wine and beer.—Excise taxes have been imposed on wine and beer since 1862. The excise tax on wine, which has been imposed at its present rate since January 1, 1955, was last amended in 1976 by Public Law 94–529.[3] The $9-per-barrel excise tax on beer has been imposed at that rate since November 1, 1951. The special $7-per-barrel beer rate for certain small producers was enacted in 1976 by Public Law 94–529, and the exemption for limited quantities of beer and wine produced for personal and family use was enacted in 1978 by Public Law 95–458.[4]

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[1] Approved July 26, 1979.
[2] Approved December 24, 1980.
[3] Approved October 17, 1976.
[4] Approved October 14, 1978.

Occupational taxes

The present occupational taxes on dealers in alcoholic beverages, brewers, and manufacturers of stills have all been continuously imposed since before enactment of the 1939 Code. Except for the tax on limited retail dealers, the tax rates have not been amended since enactment of the 1954 Code. The tax on limited retail dealers in distilled spirits was increased from $2.20 per month in which sales are made to the present $4.50 rate by the Tax Reform Act of 1976.

B. Tobacco Excise Taxes

Present Law

Overview

Excise taxes are imposed on cigars, cigarettes, and cigarette papers and tubes manufactured in or imported into the United States (sec. 5701). In general, the manufacturer or importer is liable for these taxes (sec. 5703), which are determined when the products are removed from the factory or released from customs custody. Table 2 below shows the specific excise tax rates for tobacco products.

Revenues collected for these tobacco excise taxes, most of which are collected from the tax on small cigarettes, go into the general fund of the Treasury.

Cigars

The rate of tax on small cigars (those which weigh no more than 3 pounds per thousand) is 75 cents per thousand. The rate of tax on large cigars (those which weigh more than 3 pounds per thousand) is 8.5 percent of the wholesale price, but not more than $20 per thousand cigars. Wholesale price means the manufacturer's or importer's suggested delivered price at which the cigars are to be sold to retailers (sec. 5702). Wholesale price is inclusive of this excise tax on cigars, but exclusive of any State or local taxes imposed on cigars as a commodity and before any discounts or allowances.

Cigarettes and cigarette papers and tubes

Cigarettes.—The rate of tax on small cigarettes (those which weigh no more than 3 pounds per thousand) is $4 per thousand, which is 8 cents per pack of 20 cigarettes. Generally, the rate of tax on large cigarettes (those which weigh more than 3 pounds per thousand) is $8.40 per thousand, except that higher rates apply to large cigarettes that exceed 6.5 inches in length.

Cigarette papers and tubes.—On each book or set of cigarette papers containing more than 25 papers, the rate of tax is generally one-half cent for each 50 papers or fractional part thereof. The rate of tax on cigarette tubes is generally 1 cent for each 50 tubes or fraction thereof. Higher tax rates apply to cigarette papers and tubes that measure more than 6.5 inches in length.

TABLE 2.—TOBACCO EXCISE TAXES

Item	Tax rate
Cigars (sec. 5701(a)):	
Small cigars	75 cents per thousand.
Large cigars	8½ percent of wholesale price, up to $20 per thousand.
Cigarettes (sec. 5701(b)):	
Small cigarettes	$4 per thousand (8 cents per pack).
Large cigarettes	$8.40 per thousand.
Cigarette papers (sec. 5701(c))	½ cent per 50 papers.
Cigarette tubes (sec. 5701(d))	1 cent per 50 tubes.

Legislative History

An excise tax has been imposed on cigars since 1862. The present rate of tax on small cigars became effective in 1926, when the tax rate was reduced from $1.50 to $0.75 per thousand. The present *ad valorem* tax on large cigars became effective in 1977 (enacted in the Tax Reform Act of 1976), replacing a bracket system under which the rate of tax per thousand cigars (ranging from $2.50 to $20) was dependent on the intended retail price.

An excise tax has been imposed on cigarettes since 1864. The present rate of tax on small cigarettes became effective in 1951, when the tax rate was increased from $3.50 to $4.00 per thousand.

An excise tax of 10 cents per pound on manufactured tobacco such as chewing tobacco, pipe tobacco and snuff was repealed in the Excise Tax Reduction Act of 1965, effective January 1, 1966.

C. Highway Trust Fund Excise Taxes

Present Law

Excise taxes on gasoline and certain other motor fuels, trucks and trucktrailers, truck parts, tires and tubes, tread rubber, and highway vehicles make up the sources of revenue for the Highway Trust Fund. Under present law, revenues from these highway-related excise taxes are deposited into the Highway Trust Fund through September 30, 1984, after which date these taxes are scheduled to decline generally to pre-trust fund rates or to expire. (See table 3 on page 30 for a list of present tax rates.)

Retailers excise taxes

Taxes on diesel fuel and special motor fuels [1] are levied on their sale for use in motor vehicles on highways (sec. 4041 (a) and (b)).[2] The current tax is 4 cents per gallon, and is scheduled to decrease to 1½ cents per gallon on October 1, 1984 (sec. 4041(a)). Nonhighway use exemptions apply to farm use, use as supplies for vessels or aircraft,[3] use by a State or local government, sales for export, and use by nonprofit educational institutions (sec. 4041 (f) and (g)). An additional exemption applies through 1992 to a fuels mixture (gasohol) which contains at least 10 percent alcohol of 190 proof (secs. 4041(k) and 6427(f)). Exemptions from these retail fuels taxes are also provided for fuel used by school buses and intercity or local buses furnishing public transportation for compensation (sec. 6427(b))[4] and for certain qualified taxicab use through 1982 (sec. 6427(e)).

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[1] Special motor fuels are benzol, benzene, naphtha, liquefied petroleum gas, casinghead and natural gasoline, or any other liquid (other than kerosene, gas oil, fuel oil, gasoline taxed under sec. 4081, or diesel fuel taxed under sec. 4041 (a)).

[2] The 4-cents-per-gallon tax on diesel fuel (sec. 4041(a)) applies only to use in a diesel-powered highway vehicle which is registered as a highway vehicle. For such vehicles not registered or required to be registered as a highway vehicle, the tax rate is 2 cents per gallon. (For information on the tax on diesel fuel used by commercial transportation on certain inland waterways, see discussion of "Inland Waterways Trust Fund", Part IV.I.)

The 4-cents-per-gallon tax on special motor fuels applies both for highway or motorboat use (other than fisheries or whaling use), except that the tax is 2 cents per gallon for other nonhighway, qualified business use (sec. 6421 (d)(2)).

(For additional information on the tax on motorboat fuels, see discussion on "Land and Water Conservation Fund,", in Part IV.J.)

[3] The term "supplies for vessels or aircraft" means fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war, vessels employed in fisheries or in the whaling business, or vessels engaged in foreign trade or trade between the Atlantic and Pacific ports of the U.S. or between the U.S. and any of its possessions. The term "vessels" also includes civil aircraft employed in foreign trade or trade between the U.S. and any of its possessions (sec. 4221(d)(3)).

[4] The exemption does not apply for fuel used in such intercity or local buses where the transportation is not scheduled and not along regular routes unless the seating capacity of the bus is at least 20 adults (including the driver).

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TABLE 3.—CURRENT HIGHWAY USER EXCISE TAXES AND SCHEDULED RATES OF TAX UNDER PRESENT LAW

Tax (and Code section)	Present law tax rates	
	Before Oct. 1, 1984	After Sept. 30, 1984
Petroleum products:		
Gasoline (sec. 4081)	4 cents/gallon	1.5 cents/gallon.
Diesel fuel (sec. 4041(a))	4 cents/gallon	1.5 cents/gallon.
Special motor fuel (sec. 4041(b))	4 cents/gallon	1.5 cents/gallon.
Lubricating oil (sec. 4091)	6 cents/gallon	6 cents/gallon.
Tires, tubes and tread rubber (sec. 4071):		
Tires for highway vehicles	9.75 cents/pound	4.875 cents/pound.
Laminated tires	1 cent/pound	1 cent/pound.
Other tires	4.875 cents/pound	4.875 cents/pound.
Inner tubes	10 cents/pound	9 cents/pound.
Tread rubber	5 cents/pound	No tax.
Trucks and truck parts:		
Trucks and trailers (sec. 4061(a))	10 percent of manufacturer's sale price.	5 percent of manufacturer's sale price.
Parts and accessories (sec. 4061(b))	8 percent of manufacturer's sale price.	5 percent of manufacturer's sale price.
Use tax on heavy vehicles (sec. 4481)	$3 per 1,000 pounds per year, if more than 26,000 pounds.	No tax.

Manufacturers excise taxes

Gasoline.—A manufacturers excise tax is imposed on the sale by a producer or importer of gasoline. The current gasoline excise tax is 4 cents per gallon, and is scheduled to decline to 1½ cents per gallon on October 1, 1984 (sec. 4081 (a) and (b)).[5] As with the retailers excise taxes on diesel and special motor fuels, nonhighway use exemptions from the gasoline tax (generally via refunds or credits) apply to farm use (sec. 6420); use as supplies for vessels or aircraft, use by a State or local government, sales for export, and use by nonprofit educational institutions (sec. 6416 (b) (2) (A)–(D)); use by school buses or intercity or local buses providing public passenger transportation for compensation (sec. 6421(b))[6]; and for certain qualified taxicab use through 1982 (sec. 6427(e)). Also, there is an execption from the gasoline tax for gasoline used in further manufacture (sec. 4221 (a) (1)). Additional exemption from the gasoline tax applies through 1992 to a gasoline mixture (gasohol) which contains at least 10 percent alcohol of 190 proof (sec. 4081(c)).

Vehicles, bodies and chassis.—An excise tax of 10 percent is imposed on the sale by a manufacturer, producer or importer of trucks, truck tractors, trailers, and semitrailers and the separate sale of a chassis or body for a truck, trailer, or semitrailer for use in a vehicle having a gross vehicle weight more than 10,000 pounds. After September 30, 1984, the tax is scheduled to decrease to 5 percent. Vehicles, trailers and semitrailers having a gross vehicle weight of 10,000 pounds or less, and bodies or chassis for use in vehicles within the 10,000 pound limit, are exempt from the tax (sec. 4061(a) (1) and (2)).

Exemptions from the tax are provided for camper coaches and other motor vehicle bodies that are designed primarily for use as living quarters or camping accommodations to be mounted on truck bodies or chassis. Exemptions also apply to house trailers, ambulances and hearses, concrete mixers, buses, trash containers, and feed, seed and fertilizer equipment used on, or for delivery of feed, seed or fertilizer to, farms. The tax also does not apply to sales of bodies to manufacturers or resale of bodies or chassis after certain modifications (sec. 4063 (a), (b) and (d)).

Truck parts and accessories.—Sales of parts and accessories (other than tires and tubes) for use in trucks, truck tractors, trailers and semitrailers are taxed at 8 percent (sec. 4061 (b)). The tax is scheduled to decrease to 5 percent on October 1, 1984. Parts and accessories taxed under this provision include (but are not limited to) spark plugs, storage batteries, leaf springs, timers, coils, and tire chains (sec. 4062). Rebuilt parts and accessories, however, are not subject to the tax, nor are parts for light-duty trucks, i.e., those having a gross vehicle weight of 10,000 pounds or less (sec. 4063(c) and (e)).

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[5] The 4-cents-per-gallon tax on gasolne applies for highway, noncommercial aviation, and motorboat use (other than fisheries or whaling use), except that the tax is 2 cents per gallon for other nonhighway, nonaviation, qualified business use (sec. 6421(d) (2)). (For use of tax on noncommercial aviation gasoline, see discussion of "Aviation Excise Taxes," in Part IV. D. For additional information on tax on motoboat gasoline, see discussion of "Land and Water Conservation Fund," in Part IV. J.)

[6] See footnote 4.

Tires, inner tubes and tread rubber.—Taxes are imposed on the sale by a manufacturer, producer or importer of tires, inner tubes and tread rubber. The taxes are based on weight: tires for use on highway vehicles are taxed at 9.75 cents per pound; inner tubes for tires are taxed at 10 cents per pound; and tread rubber for use in recapping or retreading highway-type tires is taxed at 5 cents per pound. On and after October 1, 1984, these taxes will decrease to 4.875 cents for tires and 9 cents for inner tubes; the tax on tread rubber will expire. Tires, other than laminated tires, that are not intended for highway use are taxed at 4.875 cents per pound. Laminated tires, which are tires not designed for highway use, are taxed at 1 cent per pound (secs. 4071–4073).

Lubricating oil.—The sale of lubricating oil is subject to a 6-cents per-gallon tax that is levied on the manufacturer or producer. Exemptions are provided for oils sold for use in cutting or machining operations on metals. An exemption also applies to sales of rerefined oil. Rerefined oil must be composed of at least 25 percent used or waste lubricating oil that has been cleaned and no more than 55 percent previously unused lubricating oil (secs. 4091–4093).

Highway use tax

The highway use tax applies to heavy motor vehicles (including buses), together with semitrailers and trailers customarily used in connection with them, with a taxable gross weight in excess of 26,000 pounds. The tax is $3.00 per year for each 1,000 pounds of taxable gross weight. The tax is paid by the person in whose name the highway vehicle is registered. Taxable gross weight is defined as the sum of the unloaded weight of the vehicle when fully equipped for service and of the trailers and semitrailers customarily used with the vehicle, plus the maximum load weight customarily carried by such highway motor vehicles and on attached trailers or semitrailers. This tax is scheduled to expire on October 1, 1984 (secs. 4481–4483).

Legislative History

Tax changes

The excise taxes that now are transferred to the Highway Trust Fund generally are the taxes which were initially designated for deposit in the Trust Fund when it was established in the Highway Revenue Act of 1956. Adjustments have been made in the applicability of several other taxes since 1956, and some tax rates also have changed.

The excise tax on gasoline, diesel oil and special motor fuels was raised from 1½ cents per gallon to 3 cents per gallon in 1956 with the establishment of the Highway Trust Fund. The tax rate was raised to the present level of 4 cents per gallon in 1959.[7]

Truck, trailer and bus bodies and chassis were taxed at 8 percent of the manufacturers sales price before enactment of the Highway Trust Fund[8] and 10 percent afterwards. The Revenue Act of 1971 that repealed the 7-percent automobile manufacturers excise tax[9] also re-

[7] Legislation in 1959 (P.L. 86–342) provided for a temporary increase to 4 cents per gallon from October 1, 1959 through June 30, 1961, which was made effective in 1961 legislation (P.L. 87–61) for the remainder of the Trust Fund (1972 at that time).

[8] The rate was 8 percent from 1951–1956 and 5 percent from 1941–1951.

[9] The excise tax on automobiles was the only highway-related excise tax not transferred to the Highway Trust Fund. Legislation in 1961 repealed a scheduled transfer to the Trust Fund of one-half the then 10-percent tax on automobiles.

pealed the 10-percent excise taxes on all vehicles weighing 10,000 pounds or less and on trailers and semitrailers for use in connection with vehicles within this weight limit. The tax on truck parts and accessories has been 8 percent since 1952, with the revenues transferred to the Trust Fund since 1966. The taxes on new buses, bus parts and accessories, and taxes on tires and tubes, tread rubber and lubricating oil used by buses were repealed in the Energy Tax Act of 1978.[10]

The manufacturers excise tax on highway tires was increased from 5 cents to 8 cents per pound when the Highway Trust Fund was enacted and raised again to 10 cents per pound in 1962. Effective on January 1, 1981, the tax was reduced to 9.75 cents per pound, and the tax on tires sold for nonhighway use was reduced from 5 cents per pound to 4.875 cents per pound.

When the Highway Trust Fund was enacted, inner tubes were taxed at 9 cents per pound, and the tax was raised to 10 cents per pound after 1961. The tax on tread rubber was 3 cents per pound from 1956 through 1961, and it was increased to 5 cents per pound for 1962 and later years.

The manufacturers excise tax on lubricating oil for use in highway vehicles was 6 cents per gallon (since 1942) when the Highway Trust Fund was enacted (the revenues from which were transferred to the Trust Fund beginning in 1966), and has remained at that level. The exemption for cutting oils was enacted in the Excise Tax Reduction Act of 1965 (P.L. 89–44), effective January 1, 1966. The exemption for rerefined oil was adopted in the Energy Tax Act of 1978, effective January 1, 1979.

Highway vehicles weighing more than 26,000 pounds initially became subject to the use tax with enactment of the Highway Trust Fund. The tax was $1.50 per 1,000 pounds per year for the period 1956–1961, and the tax rate was raised to the present law rate of $3.00 per 1,000 pounds beginning in 1962.

Development of the Trust Fund

The Highway Trust Fund was established in 1956 (P.L. 84–627) for a 16-year period to provide a specific source of financing for the new Interstate Highway System and continuation of other Federal-aid highway programs. The other highway-aid programs previously had been financed through the general fund.

The Highway Revenue Act of 1956 included a declaration of congressional policy that (1) if it appears that the total receipts of the Trust Fund will be less than the total expenditures from the Trust Fund, or (2) if it appears that the distribution of the tax burden among the various classes of highway users or other beneficiaries of the highways is not equitable, then Congress is to enact legislation to bring about a balance of total trust fund receipts and expenditures or to make an equitable distribution of the tax burden. In addition, the 1956 Act provided for a 3-year highway cost allocation study (later extended for 2 additional years) to determine the fair distribution of highway-related user taxes among the various users.

The 1956 Act also contained a provision—the "Byrd Amendment"—to prevent the Trust Fund from reaching a deficit position. In general, this provision requires that if trust fund balances and estimated future receipts will be inadequate to cover obligations as they become due, a reduction of the Interstate Highway System authorization in an amount sufficient to eliminate the difference would be required.

[10] P.L. 95–618, approved November 9, 1978.

Subsequent extensions of the Trust Fund and highway taxes

The Highway Trust Fund and the related highway user taxes have been extended three times since 1961: a 5-year extension in the Federal-Aid Highway Act of 1970 (from September 30, 1972, to September 30, 1977), a 2-year extension in the Federal-Aid Highway Act of 1976 (to September 30, 1979), and a 5-year extension in the Surface Transportation Assistance Act of 1978 (to September 30, 1984). These trust fund extensions were added by the tax committees as a separate title to a highway authorization bill and involved only the extensions of existing highway user excise taxes and tax rates.

In the 1978 Act, the operation of the "Byrd Amendment" was modified to require that when anticipated revenues are insufficient to cover expenditures, reductions will be made on a pro rata basis to all apportioned highway funds, rather than to interstate apportionments only. In addition, an exemption from the fuel taxes was provided for fuel used by qualified taxicabs until the end of 1980 (later extended to December 31, 1982). Finally, two studies were required: a cost allocation study to be conducted by the Department of Transportation, with a final report to Congress by January 15, 1982; and a study of the highway excise tax structure to be conducted by the Department of Treasury, with a final report to Congress by April 15, 1982.[10]

Trust Fund Expenditure Purposes

Since its enactment in 1956, the Highway Trust Fund has been used to finance construction of the Interstate Highway System, other Federal-aid highways, and for other Federal highway-aid programs. The current trust fund supported programs are listed below:

(1) *Interstate Highway System*—

(a) Construction to close gaps in nearly completed basic interstate system (40,061 miles completed of 42,500-mile system);

(b) Resurfacing, restoring, rehabilitating and reconstructing ("4Rs") previously completed sections.

(2) *Primary highway system*—

(a) Construction and reconstruction and related planning;

(b) Resurfacing, restoring and rehabilitating these highways.

(3) *Urban and rural area transportation programs*—Assist in both types of areas in construction, rehabilitation and reconstruction of local roads, and related planning and research; public transportation capital expenditures; safety improvements and traffic system management. (Urban areas have more than 50,000 persons; rural areas less than that population.)

(4) *Bridge program*—Rehabilitation or replacing structurally deficient bridges.

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[10] These amendments (except for later extension of the taxicab fuels exemption) were contained in Title V, the Highway Revenue Act of 1978, of the Surface Transportation Assistance Act of 1978 (P.L. 95-599).

The cost allocation study was submitted to the Congress on May 13, 1982: "Final Report on the Federal Highway Cost Allocation Study." The Treasury study on the highway excise tax structure has not yet been submitted.

(5) *Construction safety programs*—Designed to build safety into highways during their construction, including such things as roadside hazards, pavement marking, and highway rail crossings.

(6) *Emergency relief.*

(7) *Administration and research through the Federal Highway Administration*—Involving (a) coordination and direction of various public programs and requirements, (b) general program support affecting policy plans and projections and administrative support, and (c) engineering and financial assistance.

(8) *Additional programs*—The Highway Trust Fund contributes a share of costs that generally is proportionately smaller than the contribution to the programs cited above:

—National scenic and recreational highways;
—Railroad-highway crossings;
—Rural highway public transportation demonstration projects;
—Bicycle programs;
—Highway safety research and development;
—Car and van pool projects; and
—Right-of-way revolving fund.

D. Airport and Airway Trust Fund Taxes

Present Law

Overview

The Airport and Airway Revenue Act of 1970 (Title II of Public Law 91–258) enacted or amended various aviation excise taxes. The Act also established the Airport and Airway Trust Fund for deposit of these excise taxes. On October 1, 1980, many of the taxes expired or were reduced. Deposit of the aviation tax revenues in the Trust Fund was also terminated on that date.

Present tax rates

Since October 1, 1980, a 5-percent excise tax has been imposed on domestic air transportation of persons (sec. 4261(e)).[1] Revenues from this tax currently go into the general fund. There is also a 4-cents-per-gallon manufacturers excise tax on gasoline used in noncommercial aviation (sec. 4081), the revenues from which currently go into the Highway Trust Fund.

Excise taxes on aircraft tires and tubes are also imposed at the same rates applicable to other nonhighway tires (4.875 cents per pound) and tubes (10 cents per pound) under present law (sec. 4071). The revenues from the taxes on aircraft tires and tubes currently go into the Highway Trust Fund.

Table 4 shows the present law schedule of aviation excise taxes and the present tax rates.

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[1] Air transportation between the United States and foreign stations in Canada and Mexico which is not more than 225 miles from the nearest point in the continental United States, as well as between two such foreign stations, generally is subject to the 5-percent tax where payment for the travel is made in the United States. This tax does not apply to transportation between the United States and other foreign stations, nor does it apply to the U.S. portions of international air transportation where the layover does not exceed 6 hours. Also, the air passenger tax does not apply to the international portion of flights to or from or between Alaska and Hawaii (sec. 4262).

TABLE 4.—SCHEDULE OF AVIATION EXCISE TAXES UNDER PRESENT LAW [1]

Tax (and Code section)	Present rate
Air passenger ticket tax (sec. 4261(e))	5 percent.
Fuels tax for noncommercial (general) aviation gasoline (sec. 4081(a))	4 cents/gallon.
Aircraft tires tax (sec. 4071)	4.875 cents/lb.
Aircraft tubes tax(sec. 4071)	10 cents/lb.

[1] Under legislation reported by the House Committee on Ways and Means H.R. 4800, H. R. Rep. No. 97-510), the following aviation excise taxes and rates would apply for the period, July 1, 1982 to December 31, 1983 (and the revenues would go into the Airport and Airway Trust Fund for the same period):

Air passenger ticket tax	5 percent.
Air freight waybill tax	5 percent.
International departure tax	$5 per person.
Fuels tax for noncommercial aviation (gasoline and nongasoline)	12 cents/gallon.
Aircraft tires tax	4.875 cents/pound.
Aircraft tubes tax	10 cents/pound.

Legislative History

Taxes on air transportation of persons and property

For the period July 1, 1970 through September 30, 1980, the excise tax on air passenger transportation within the United States was imposed at a rate of 8 percent of the amount of the airfare. The tax on air passenger transportation was 5 percent from 1960 through June 1970,[2] with the revenues going into the general fund.

A new $3 per passenger departure tax was enacted in the 1970 Act. It applied to international air transportation that began in the United States, and to flights to or from Alaska and Hawaii. This tax terminated on October 1, 1980.

In the case of air transportation of property, the 1970 Act imposed a new tax of 5 percent of the air freight waybill charge; this tax terminated on October 1, 1980. In determining taxable transportation, the same rules generally applied as for transportation of persons, except that the air freight tax applied only to amounts paid for

[2] The Excise Tax Reduction Act of 1965 (P.L. 89-44) made the 5-percent rate permanent; the air passenger ticket tax had been scheduled to expire on July 1, 1965. The tax was extended several times between 1960 to 1965. The Tax Rate Extension Act of 1959 (P.L. 86-75) reduced the tax rate from 10 to 5 percent, effective July 1, 1960; before that action, the tax had been scheduled to expire on July 1, 1960.

transportation of property by air which began and ended in the United States.

These taxes were collected with the fare by the air carrier for subsequent deposit by the Treasury into the Airport and Airway Trust Fund (July 1, 1970–September 30, 1980). Exemptions from these taxes were (and continue to be for the domestic air passenger ticket tax) provided for transportation by small aircraft on nonestablished lines (sec. 4281) and for private air transportation services provided within a group of affiliated corporations (sec. 4282). Aircraft not subject to these passenger or freight taxes were subject to the fuels tax, mentioned below.

Other aviation excise taxes

In addition to the taxes on air passenger and air freight fares, there was a 7-cents-per-gallon tax on aviation fuels (gasoline and other fuels, including jet fuels) used by noncommercial (general) aviation, an aircraft use tax, and a tax on aircraft tires and tubes. The fuels tax was an increase from the pre-1970 net tax of two cents per gallon on gasoline for aviation use. The tax on aviation gasoline became 4-cents-per-gallon on October 1, 1980, while the 7-cents-per-gallon tax on nongasoline fuels (e.g., kerosene, or jet fuels) expired on that date. The aircraft use tax (see table 5) was new under the 1970 Act, and the tax expired on October 1, 1980. The tax on aircraft tires and tubes was merely a transfer of revenues from the excise taxes on such tires and tubes from the Highway Trust Fund.

There was (and continues to be for gasoline) a general exemption (via a refund or credit) from the aviation fuels tax for fuel sold for use or used by a farm owner, tenant, or operator, and certain aerial applicators on a farm for farming purposes. The tax on aviation fuels does not and the tax on aircraft use did not apply to aircraft owned by a tax-exempt aircraft museum operated exclusively for the procurement, care, and exhibition of World War II aircraft. In addition, there is a general exemption from the fuels tax for fuel sold for use or used by a State or local government, by a nonprofit educational organization, and for fuels exported.

Table 5 shows the aviation excise taxes and tax rates as they existed for the period July 1, 1970 through September 30, 1980.

TABLE 5.—SCHEDULE OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES, JULY 1, 1970-SEPTEMBER 30, 1980

Tax (and Code section)	Tax rate
Air passenger ticket tax (sec. 4261(a),(b) and (d))	8 percent.
Air freight waybill tax (sec. 4271)	5 percent.
International departure tax (sec. 4261(c))	$3 per person.
Fuels tax for noncommerical (general) aviation (sec. 4041(c).[1]	7 cents/gal.
Aircraft use tax (sec. 4491) [1]	([2]).
Aircraft tires tax (sec. 4071)	5 cents/lb.
Aircraft tubes tax (sec. 4071)	10 cents/lb.

[1] The tax did not apply to aircraft owned by a tax-exempt museum operated exclusively for the procurement, care, and exhibition of World War II aircraft (defined in sec. 4041(h)).

[2] An annual tax of two parts: (1) a $25 annual per plane tax, plus (2) a weight tax of 3½ cents per pound for turbine-powered (jet) aircraft and 2 cents per pound for nonturbine-powered aircraft for each pound in excess of 2,500 pounds of "maximum certificated takeoff weight." However, for the period July 1, 1980–Sept. 30, 1980, the use tax was one-fourth the applicable annual rate.

Trust Fund Expenditure Purposes

Background

The Airport and Airway Trust Fund was established as of July 1, 1970 (Title II of P.L. 91–258). Revenues from the aviation-related excise taxes, and interest earned on the trust fund balance, were deposited into the Trust Fund during the period July 1, 1970–September 30, 1980.[3]

1970 Act and 1971 amendment

The 1970 Act provided that new and increased aviation user taxes were to be deposited into the Trust Fund and, with interest earned on the deposits, were to be available to meet airport and airway obligations of the United States that could be incurred under Title I of the 1970 Act, as it was in effect on the date of enactment or, generally, under the Federal Aviation Act of 1958. As a result, subsequent expansion of trust fund budget authority was to require corresponding amendments to the trust fund language.

[3] Interest on the trust fund balance currently continues to accrue to the fund.

Titles I and II of the 1970 Act authorized trust fund expenditures through fiscal year 1975 for the maintenance and operation of air navigation facilities, qualified airport planning and construction purposes, airway facilities and equipment, research and development, safety, and related departmental administrative expenses. A 1971 amendment (P.L. 92–174) to the 1970 Act removed the authority for spending trust fund monies for maintenance and operation of the airway system. This amendment also limited the authority for meeting administrative costs from the trust fund only to such administrative expenses related to the remaining authorized purposes.

1973 amendment

A 1973 amendment (P.L. 93–94) to the 1970 Act increased the authorization levels for airport grants for fiscal years 1974 and 1975, increased the Federal share for certain airport grants and safety and security equipment costs, and amended the definition of airport development specifically to include airport security equipment required under Department of Transportation regulations.

1976 amendment

The Airport and Airway Development Act Amendments of 1976 (P.L. 94–353) further amended the 1970 Act to include several additional expenditure categories to be authorized from the Trust Fund. The new expenditure categories were: snow removal equipment; noise suppressing equipment; construction of physical barriers and landscaping for the purpose of reducing the effect of aircraft noise in areas adjacent to public airports; acquisition of land or property interests for airport noise control purposes; airport terminal development (limited to the public, nonrevenue-producing areas, including baggage facilities and passenger moving equipment); and specified amounts for maintenance of airway facilities. Thus, the 1971 prohibition against financing airway maintenance costs from the Trust Fund was partially removed in the 1976 amendment. The trust fund language was amended to reflect these authorization changes.

In addition, the 1976 Act provided authorization levels for airport grants and other existing trust fund expenditure programs through fiscal year 1980, and increased the Federal share for certain airport grants for fiscal years 1977 and 1978.

1979 amendment

The Aviation Safety and Noise Abatement Act of 1979 (P.L. 96–193) authorized grants from the Trust Fund for airport noise compatibility planning and programs; $15 million was authorized for the planning grants for the fiscal year 1980, and $25 million was authorized for fiscal year 1980 for the program grants. The Federal share of such program grants was 80 percent.

The 1979 Act also increased the airport aid authorization amounts for fiscal year 1980 from $525 million to $569 million for air carrier airports and from $85 million to $98 million for general aviation airports. In addition, the Act amended the trust fund provisions to authorize liquidation of obligations incurred under the 1979 Act amendments.[4]

[4] Sec. 208(f)(1)(A) of the Airport and Airway Revenue Act of 1970; 49 U.S.C. 1742(f)(1)(A)—that is, "as such Acts were in effect on the date of enactment of the Aviation Safety and Noise Abatement Act of 1979."

1981 amendment

Under the Fiscal Year 1981 Airport Development Authorization Act (enacted as part of the Omnibus Reconciliation Act of 1981),[5] the ADAP authorization for fiscal year 1981 was set at $450 million. The amount included planning grants and noise compatibility programs under the 1979 Act (with the latter to be not less than $25 million). The 1981 Reconciliation Act also provided an overall limit on ADAP obligtaions of $1,050 million for fiscal years 1981 and 1982 combined, and stated that this limit would prevail if the conference agreement on the authorization legislation exceeded such amount.

In addition, the 1981 Act amended the trust fund provisions to authorize liquidation of obligations incurred under the 1981 Act amendments as well as previously authorized purposes.

Summary of trust fund authorization purposes

The following outline presents a summary listing of the Airport and Airway Trust Fund expenditure purposes:

a. *Airport Development Aid Program (ADAP).*—

(1) *Airport planning.*—Grants to planning agencies for airport system planning and public agencies for airport master planning; also, airport noise compatibility planning grants for air carrier airports eligible for terminal development costs.

(2) *Airport development projects:*

(*a*) *Airport construction.*—Construction, improvement or repair of a public airport (includes removal of airport hazards and construction of physical barriers and landscaping to diminish noise).

(*b*) *Airport terminal facilities.*—Nonrevenue-producing public use areas which are directly related to movement of passengers and baggage (includes baggage facilities and passenger-moving equipment) at air carrier airports, the sponsors of which certify that they have the required safety and security equipment; does not include costs of constructing public parking facilities for passenger automobiles or costs to construct, alter, or repair a hangar or any airport building unless used to house facilities or activities directly related to safety of persons at the airport. Authorized uses of funds also include multimodal terminal development and bond retirement for certain airports.

(*c*) *Land acquisition.*—Includes land or property interests for airport noise control purposes.

(*d*) *Airport-related equipment.*—Airport security equipment required by DOT regulations, snow removal equipment, noise suppressing equipment, navigation aids, and safety equipment required for airport certification.

(*e*) *Airport noise compatibility programs.*—Includes soundproofing of public buildings; local governmental units are eligible for project grants as well as airports.

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[5] Part I of Subtitle A of Title 11 of the Omnibus Reconciliation Act of 1981 (P.L. 97-35).

b. *Facilities and Equipment Program (F&E).*—Costs of acquiring, establishing, and improving air navigation facilities.

c. *Research, Engineering, Development, and Demonstration Program (RE&D).*—Projects in connection with FAA research and development activities.

d. *Operations and Maintenance Programs (O&M).*—Flight checking and maintenance of air navigation facilities; services provided under international agreements relating to the joint financing of air navigation services assessed against the U.S. Government.

e. *Other costs.*—Certain airline costs of international passenger security screening facilities and related services.

E. Environmental Excise Taxes

1. Taxes for Hazardous Substance Response Trust Fund

Present Law

Excise taxes are imposed on crude oil (sec. 4611) and certain chemicals (sec. 4661), and the revenues from these taxes are deposited into the Hazardous Substance Response Trust Fund.

The crude oil tax of 0.79 cent per barrel is imposed on the receipt of crude oil at a U.S. refinery, on the import of crude oil and petroleum products, or if the tax has not already been paid, on the use or export of domestically produced crude oil.

The tax on chemicals is imposed on the sale or use of 42 specified organic and inorganic substances if they are produced in or imported into the United States. (See table 6, below.) The taxable chemicals generally are chemicals that are hazardous or chemicals the use of which may create hazardous products or wastes. The rates vary from 22 cents per ton to $4.87 per ton. Exemptions are provided for methane or butane used as a fuel, certain substances used in the production of fertilizer, sulfuric acid produced as a byproduct of air pollution control, and substances derived from coal.

The taxes generally terminate on September 30, 1985. However, the taxes will be suspended during calendar years 1984 or 1985, if, on September 30, 1983, or 1984, respectively, the unobligated trust fund balance exceeds $900 million, and the unobligated balance on the following September 30 will exceed $500 million, even if these excise taxes were suspended for the calendar year in question. Further, the authority to collect taxes will terminate when cumulative receipts from these taxes reaches $1.38 billion.

TABLE 16.—EXCISE TAX RATES ON CERTAIN CHEMICALS

(Sec. 4661)

Chemical	Tax per ton
Acetylene	$4.87
Benzene	4.87
Butane	4.87
Butylene	4.87
Butadiene	4.87
Ethylene	4.87
Methane	3.44
Napthalene	4.87
Propylene	4.87
Toluene	4.87
Xylene	4.87
Ammonia	2.64
Antimony	4.45
Antimony trioxide	3.75
Arsenic	4.45
Arsenic trioxide	3.41
Barium sulfide	2.30
Bromine	4.45
Cadmium	4.45
Chlorine	2.70
Chromium	4.45
Chromite	1.52
Potassium dichromate	1.69
Sodium dichromate	1.87
Cobalt	4.45
Cupric Sulfate	1.87
Cupric oxide	3.59
Cuprous oxide	3.97
Hydrochloric acid	.29
Hydrogen fluoride	4.23
Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Phosphorus	4.45
Stannous chloride	2.85
Stannic chloride	2.12
Zinc chloride	2.22
Zinc sulfate	1.90
Potassium hydroxide	.22
Sodium hydroxide	.28
Sulfuric acid	.26
Nitric acid	.24

Legislative History

The taxes and trust fund were enacted in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and have not been amended since. The taxes became effective on April 1, 1981.

Trust Fund Expenditure Purposes

Amounts in the Hazardous Substance Response Trust Fund are available for certain costs incurred in connection with releases or threats of releases of hazardous substances into the environment. Allowable costs include (1) costs of responding to the presence of hazardous substances on land or in water or air, including cleanup and removal of the substances, (2) payment of claims for injury to, or destruction of, natural resources belonging to or controlled by State or Federal governments, and (3) certain costs related to response, such as damage assessment, epidemiologic studies, and maintenance of emergency strike forces.

Amounts transferred to the Trust Fund include the proceeds of the excise taxes described above, amounts recovered from parties responsible for releases of hazardous substances, and various damages and penalties. In addition, authorization is provided for up to $220 million of general fund appropriations into the Trust Fund, for fiscal years 1981 through 1985, inclusive. The Trust Fund is also authorized to borrow limited amounts from the Treasury.

At least 85 percent of the receipts of the taxes and the general fund appropriations are reserved for purposes other than payment of natural resources damage claims. Claims against the trust fund may be paid only out of the trust fund. If claims against the fund exceed the balance available for payment of those claims, then claims are to be paid in full in the order in which they were finally determined.

2. Tax for Post-Closure Liability Trust Fund

Present Law

Effective after September 30, 1983, a tax of $2.13 per dry weight ton will be imposed on hazardous waste which is received at a qualified hazardous waste disposal facility and which will remain at the facility after its closure (sec. 4681). These tax receipts are to be paid into the Post-Closure Liability Trust Fund. Taxable waste and qualified hazardous waste disposal facility are defined by reference to the Solid Waste Disposal Act.

Authority to collect the tax is suspended for any calendar year after 1984, if the unobligated balance in the trust fund exceeds $200 million on the preceding September 30. Further, authority to collect the tax will terminate when cumulative receipts from the environmental excise taxes on crude oil and certain chemicals (mentioned above) reach $1.38 billion.

Legislative History

The tax and trust fund provisions were enacted in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and they have not been amended since then.

Trust Fund Expenditure Purposes

The Post-Closure Liability Trust Fund will assume completely the liability, under any Federal, State or local law, of owners and operators of hazardous waste disposal facilities that have been granted permits and properly closed under subtitle C of the Solid Waste Disposal Act. The Fund will pay for monitoring and maintaining closed sites and will assume liability for damages and cleanup expenses of such sites if the facility meets two requirements. First, the facility must have been issued an individual permit under subtitle C of the Solid Waste Disposal Act, and must have complied with the applicable regulations affecting the performance of the facility after closure. Second, the facility and surrounding area must have been monitored for up to five years after closure to demonstrate that there is no substantial risk of a release of hazardous waste into the environment.

F. Black Lung Disability Trust Fund Excise Taxes

Present Law

Coal excise tax

A manufacturers excise tax is imposed on domestically mined coal (other than lignite) which is sold or used by the producer of the coal (secs. 4121 and 4218). Amounts equal to the revenues collected from this tax are automatically appropriated to the Black Lung Disability Trust Fund (sec. 9501).

The rate of tax is $1 per ton for coal from underground mines and 50 cents per ton for coal from surface mines, but the tax cannot exceed 4 perecnt of the price for which the coal is sold. Present law provides that the rate of tax be reduced on January 1, 1996 or earlier, if, on the first January 1 after 1981 as of which there is no balance of repayable advances made to the trust fund (from the general fund of the Treasury) and no unpaid interest on such advances. This reduced tax rate (the same rate as had been into effect before 1982) will be 50 cents per ton for coal from underground mines and 25 cents per ton for coal from surface mines, but not more than 2 percent of the price for which the coal is sold.

Black lung benefit trusts and penalty taxes

Present law provides that a coal mine operator who is responsible for paying black lung benefits to coal miners or their survivors may fund its liability through deductible contributions to a qualified tax-exempt trust (sec. 501(c)(21)). To qualify, this trust must be established for the sole purpose of satisfying the operator's liability under Black Lung Acts, paying premiums for insurance exclusively covering such liability, and paying administrative expenses of the trust. Monies of a qualified trust that are not needed to satisfy current liability may be invested only in government securities or insured savings deposits.

Misuse of a trust due to self-dealing (sec. 4951), expenditures for an improper purpose ("taxable expenditures") (sec. 4952) or excessive contributions to the trust (sec. 4953) triggers certain penalty excise taxes. The taxes on self-dealing and on "taxable expenditures" involve a two-tier excise tax procedure of a 10-percent initial tax imposed on the self-dealer or the fund, respectively, and a 2½-percent tax on the trustee. If the taxable event is not corrected within a specified time, additional taxes of 100 percent on the self-dealer or fund, respectively, and 50 percent on the trustee are imposed. Amounts equal to the revenue collected under these penalty taxes, which historically have been very small, are automatically appropriated to the Black Lung Disability Trust Fund.

Legislative History

An excise tax on coal has been in effect since 1978 (enacted in the Black Lung Benefits Revenue Act of 1977). The present rate of tax, which is double the original rate of tax, was established by the Black Lung Benefits Revenue Act of 1981 (P.L. 97–119), effective January 1, 1982. Certain other amendments to the Trust Fund, including transferring the provisions to the Internal Revenue Code (chapter 98), were made in the 1981 Act.

Trust Fund Expenditure Purposes

The Black Lung Disability Trust Fund was created in 1978 pursuant to the Black Lung Benefits Revenue Act of 1977. Amounts in the fund are available pursuant to appropriation acts to pay for benefits to certain coal miners who are totally disabled by pneumoconiosis (black lung disease) arising out of coal mine employment and to their survivors. Generally, the fund is required to pay benefits with respect to claims filed after June 30, 1973, provided that the miner's last coal mine employment was before January 1, 1970. With respect to other claims filed after June 30, 1973, the fund pays benefits if there is no coal mine operator among the miner's employers who is responsible for paying such benefits or if the responsible operator is in default.

In general, benefits under the black lung program consist of monthly cash payments and medical and rehabilitation benefits. The cash payments vary in amount with the number of dependents in the family. Medical and rehabilitation benefits, for which a miner but not a miner's family or survivors may be eligible, include treatment and medications prescribed for the miner's black lung disease and directly associated illnesses.

G. Gas Guzzler Tax

Present Law

Automobiles that fail to meet prescribed fuel efficiency standards specified for each model year are subject to an excise tax (sec. 4064). The tax was enacted as part of the Energy Tax Act of 1978, applicable to 1980 and later model year automobiles. The term automobile includes 4-wheeled highway vehicles rated at 6,000 pounds weight or less. The tax is imposed at annually increasing rates through model year 1986. (See table 7 below.) Revenues from the gas guzzler tax go into the general fund of the Treasury.

The tax does not apply to automobiles which are classified as nonpassenger automobiles under rules prescribed by the Secretary of Transportation for purposes of section 501 of the Motor Vehicles Information and Cost Savings Act and which were in effect on November 9, 1978. Other exemptions from the tax apply to emergency vehicles used (1) as ambulances or combination ambulance-hearses, (2) as police or law-enforcement vehicles, or (3) for any other emergency use prescribed by the Secretary of Treasury by regulations. A small manufacturer (one who produces fewer than 10,000 automobiles in a model year) may apply for an exemption from the tax on the grounds that it is not feasible to meet the tax-free fuel economy level for all automobiles produced or for a model type in the model year. The Secretary may prescribe an alternative rate schedule for the specified automobiles. The alternate schedule should be based on the maximum feasible fuel economy that the manufacturer can attain.

Fuel economy ratings are determined by the Environmental Protection Agency, based upon the average number of miles traveled by the automobile per gallon of gasoline. An automobile model year is the manufacturer's annual production period which includes January 1 of a calendar year.

If a gas guzzler tax is imposed on the sale of an automobile, the income tax basis of a purchaser whose use of the automobile begins within one year of the first sale for use of the automobile is reduced by the amount of the tax.

Table 7 shows the gas guzzler tax for the applicable fuel economy standards in each model year for model years 1982 to 1986 and thereafter.

TABLE 7.—RATE OF GAS GUZZLER TAX BY MODEL YEAR
(SEC. 4064)

Model year	Fuel economy rating (in miles per gallon)	Tax
1982	At least 18.5	0
	At least 17.5 but less than 18.5	200
	At least 16.5 but less than 17.5	350
	At least 15.5 but less than 16.5	450
	At least 14.5 but less than 15.5	600
	At least 13.5 but less than 14.5	750
	At least 12.5 but less than 13.5	950
	Less than 12.5	1,200
1983	At least 19	0
	At least 18 but less than 19	350
	At least 17 but less than 18	500
	At least 16 but less than 17	650
	At least 15 but less than 16	800
	At least 14 but less than 15	1,000
	At least 13 but less than 14	1,250
	Less than 13	1,550
1984	At least 19.5	0
	At least 18.5 but less than 19.5	450
	At least 17.5 but less than 18.5	600
	At least 16.5 but less than 17.5	750
	At least 15.5 but less than 16.5	950
	At least 14.5 but less than 15.5	1,150
	At least 13.5 but less than 14.5	1,450
	At least 12.5 but less than 13.5	1,750
	Less than 12.5	2,150
1985	At least 21	0
	At least 20 but less than 21	500
	At least 19 but less than 20	600
	At least 18 but less than 19	800
	At least 17 but less than 18	1,000
	At least 16 but less than 17	1,200
	At least 15 but less than 16	1,500
	At least 14 but less than 15	1,800
	At least 13 but less than 14	2,200
	Less than 13	2,650
1986 and thereafter	At least 22.5	0
	At least 21.5 but less than 22.5	500
	At least 20.5 but less than 21.5	650
	At least 19.5 but less than 20.5	850
	At least 18.5 but less than 19.5	1,050
	At least 17.5 but less than 18.5	1,300
	At least 16.5 but less than 17.5	1,500
	At least 15.5 but less than 16.5	1,850
	At least 14.5 but less than 15.5	2,250
	At least 13.5 but less than 14.5	2,700
	At least 12.5 but less than 13.5	3,200
	Less than 12.5	3,850

Legislative History

The gas guzzler tax has not been changed since its enactment. Before enactment of the Energy Tax Act of 1978 [1], no special excise tax was imposed on automobiles based on their gasoline use efficiency or their meeting other specified standards. However, a general manufacturers excise tax on automobiles and light-duty (10,000 pounds or less) trucks (e.g., pickup trucks) was imposed until its repeal in the Revenue Act of 1971.[2] That tax was imposed at a rate of 7 percent between 1965 and 1971, and at a rate of 10 percent for 1951–1965.

From 1941–1951, the excise tax on automobiles was 7 percent; from 1932–1941, the tax was 3 percent; no tax was imposed from 1928–1932; a 3-percent tax was imposed from 1926–1928; a 5-percent tax from 1919–1926; and a 3-percent tax from 1917–1918 (enacted originally in the Revenue Act of 1917).

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[1] P.L. 95–618, approved November 9, 1978.
[2] P.L. 92–178, approved December 10, 1971.

H. Crude Oil Windfall Profit Tax

Present Law

General

The windfall profit tax is a temporary excise tax on the removal of domestically produced taxable crude oil from the premises on which it was produced (secs. 4986–4998). All domestically produced taxable crude oil is classified in one of three tax tiers. The method of determining the tax is essentially the same for all tiers; the tax is equal to the taxable windfall profit multiplied by the applicable tax rate. The taxable windfall profit generally is equal to the selling price of the oil minus an adjusted base price and an adjustment for State severance taxes. The windfall profit on any barrel of crude oil cannot, however, exceed 90 percent of the net income attributable to that barrel. The applicable tax rate differs between the various tiers, as does the adjusted base price. All base prices are adjusted for inflation, plus an additional 2-percent per year in the case of tier 3 oil. The original base prices reflected quality and location differentials as well as the price controls that applied in 1979. Certain kinds of producers either are exempt from the tax or are eligible for reduced rates of tax on all or part of their production.

Oil subject to tax and rates of tax

Tier one oil generally is all oil which would have been lower or upper tier oil had previous price controls been continued, and any other oil not included in tiers two or three. Tier two oil is all oil which qualifies as stripper oil or which is attributable to production from a "National" Petroleum Reserve.[1] Tier three oil is newly discovered oil, heavy oil, and incremental tertiary oil.

The tax rate applied to the windfall profit is 70 percent for tier one oil, 60 percent for tier two oil, and 30 percent for tier three oil. Newly discovered oil is subject to a reduced windfall profit rate. This rate, which is currently 27.5 percent, will be reduced to 15 percent by 1986. Independent producers are allowed reduced rates on up to 1,000 barrels a day of their combined production of tier one and tier two oil from qualified working interests. For tier one oil, the reduced rate is 50 percent, and for tier two oil the reduced rate is 30 percent. (See table 8, following, for applicable tax rates by tier.)

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[1] The reference should have been to a "Naval" Petroleum Reserve. This reference is proposed to be corrected in the Technical Corrections Act of 1982 (H.R. 6056), as ordered reported by the House Committee on Ways and Means.

TABLE 8.—CRUDE OIL WINDFALL PROFIT TAX RATES

Item (sec. 4987)	Tax rate
Tier one oil	70 percent; 50 percent for independent producers.
Tier two oil (stripper oil,[1] Petroleum Reserve oil).	60 percent; 30 percent for independent producers.
Tier three oil:	
Newly discovered oil	27.5 percent for 1982, 25 percent for 1983, 22.5 percent for 1984, 20 percent for 1985, and 15 percent for 1986 and thereafter.
Heavy oil and incremental tertiary oil	30 percent.

[1] Qualified independent stripper oil is exempt beginning in 1983.

Exemptions

State and local governments, certain qualifying charitable medical facilities, educational institutions and child care facilities, and Indian tribes and Indians over whom the United States exercises trust responsibilities are exempt from the tax, if certain conditions are satisfied. There also are exemptions for oil production in most of Alaska, for front-end tertiary oil, for qualified independent stripper oil (beginning in 1983), and for a certain amount of royalty owners' production (secs. 4991(b) and 4994).

Phaseout of tax

The windfall profit tax is scheduled to phaseout over a 33-month period, beginning after December 31, 1987, or when cumulative revenues raised by the tax reach $227.3 billion, whichever is later. However, the phaseout will begin no later than January 1991 (sec. 4990.)

Legislative History

Prior to the enactment of the Crude Oil Windfall Profit Tax Act of 1980, which was generally effective with respect to oil removed from the premises after February 29, 1980, there was no Federal excise tax on domestically produced oil. Since its enactment, there have been several amendments to the 1980 Act.

The tax was amended in late 1980 by the addition of section 6429, dealing with royalty owner credits, as part of the Omnibus Reconciliation Act of 1980 (P.L. 96–499). As enacted, section 6429 provided for the credit or refund of up to $1,000 of windfall profit tax paid by qualified royalty owners with respect to oil removed from the premises during the period March 1 to December 31, 1980.

The tax was then amended by the Economic Recovery Tax Act of 1981 (ERTA).[1] ERTA amended section 6429 by increasing the $1,000 credit (or refund) amount to $2,500 and extending it to include the tax paid by qualified royalty owners on oil removed from the premises

[1] P.L. 97–34, approved August 13, 1981.

during 1981. For 1982 and subsequent years, ERTA replaces the credit or refund mechanism with an exemption from the windfall profit tax for specified amounts of qualified royalty production.

ERTA also provided for the gradual reduction of the windfall profit tax rate applicable to newly discovered oil. In 1981, the rate was 30 percent, with the rate reduced to 27.5 percent for 1982. The tax rate on newly discovered oil is gradually reduced until it reaches 15 percent in 1986. In addition, ERTA amended the 1980 Act to exempt from the tax oil produced from an independent producer's working interest in a stripper well, beginning in 1983. This exemption is in addition to the 1,000 barrels of independent producer oil allowed lower rates under current law. Finally, ERTA expanded the category of exempt charitable producers to include certain qualified child care organizations.

I. Inland Waterways Fuel Tax

Present Law

A retailers excise tax is imposed on diesel and other liquid fuels used by commercial cargo vessels on 26 designated inland or intracoastal waterways of the United States (sec. 4042). Included among the 26 waterways are the Mississippi River upstream from Baton Rouge, the Mississippi's tributaries, and the Gulf and Atlantic Intracoastal Waterways.

The tax does not apply to fuel used by deep-draft ocean-going vessels, recreational vessels, or noncargo vessels such as passenger vessels and fishing boats. In addition, fuel used by tugs in moving LASH and SEABEE oceangoing barges carrying international cargoes is exempt.

The present tax rate is 6 cents per gallon. That rate was first effective on October 1, 1981. On October 1, 1983, the rate is scheduled to increase to 8 cents per gallon. Two years later, beginning on October 1, 1985, the tax will increase to 10 cents per gallon.

Legislative History

Prior to enactment of the Inland Waterways Revenue Act of 1978,[1] there was no Federal excise tax on fuels used in commercial transportation on designated inland or intracoastal waterways. That law imposed a 4-cents-per-gallon tax beginning on October 1, 1980, and provided for the increases in tax rates indicated above in the discussion of present law.

The Act also established the Inland Waterways Trust Fund and directed the Secretaries of Transportation and Commerce, in consultation with other specified agencies, to conduct a study of inland waterway taxes and charges, and to report to the Congress by September 30, 1981.[2]

Trust Fund Expenditure Purposes

Revenues from the inland waterways fuel excise tax are transferred periodically to the Inland Waterways Trust Fund. Amounts in the Trust Fund are available, as provided by authorization and appropriation acts, for making construction and rehabilitation expenditures for navigation on those 26 specified inland or intracoastal waterways, the commercial use of which is subject to the fuel excise tax.

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[1] P.L. 95–502, approved October 21, 1978.

[2] Report of the Secretary of Transportation to the United States Congress, "Inland Waterway User Taxes and Charges," February 1982.

J. Land and Water Conservation Fund; National Recreational Boating Safety and Facilities Improvement Fund

1. Land and Water Conservation Fund

Present Law

Present law provides for the transfer of certain tax and other government receipts to the Land and Water Conservation Fund. There are no separate taxes imposed specifically for this purpose. The amounts transferred to the fund are described below.

(1) An amount equal to the revenues derived from the 4-cents-per-gallon tax on gasoline (sec. 4081) and special fuels (sec. 4041) used in motorboats (except for certain amounts transferred to the National Recreational Boating Safety and Facilities Improvement Fund, described below, for fiscal years 1981–1983);[1]

(2) All proceeds, except those committed under other statutes,[2] received from any disposal of surplus real property and related personal property under the Federal Property and Administrative Services Act of 1949, as amended, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury;

(3) Certain miscellaneous receipts under the Outer Continental Shelf Lands Act;[3] and

(4) Revenues from Federal recreation fee collections (since January 1, 1981).

2. National Recreational Boating Safety and Facilities Improvement Fund (Boating Safety Fund)

The Secretary of the Treasury is authorized to pay into the Boating Safety Fund amounts equivalent to the motorboat fuel taxes received on or after October 1, 1980, and before October 1, 1983. The aggregate amount transferred to the Fund during any fiscal year is not to exceed $20 million, and no amount is to be transferred if such transfer would result in increasing the amount in the Fund to a sum in excess of $20 million. Any amount received in the Highway Trust Fund which is attributable to motorboat fuel taxes and which is not transferred from the Highway Trust Fund under these provisions is to be transferred into the Land and Water Conservation Fund provided for in Title I of the Land and Water Conservation Fund Act of 1965.

The present fuels tax is 4 cents a gallon on gasoline and special motor fuels.

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[1] A more complete explanation of the excise taxes on gasoline and special fuels is included in Part IV. C., "Highway Trust Fund Excise Taxes."

[2] Under 40 U.S.C. 485(b)(c), the Independent Appropriation Act of 1963, or in any later appropriation Act.

[3] 43 U.S.C. 1331 *et seq.*

Legislative History

Land and Water Conservation Fund

The Land and Water Conservation Fund was established on January 1, 1965 (P.L. 88–578).[4] Initially, a portion of the funding came from user fees for all Federal recreational areas. The imposition of user fees on Federal recreational areas generally was terminated after December 31, 1971; however, in 1981, P.L. 96–514 provided that revenues from remaining recreational fees should be deposited into the Fund.

Boating Safety Fund

The National Recreational Boating Safety and Facilities Improvement Fund was enacted on October 14, 1980 (P.L. 96–451). Before this time, all funds attributable to the excise taxes on motorboat use of gasoline and other motor fuels were transferred periodically from the Highway Trust Fund into the Land and Water Conservation Fund.

Fund Expenditure Purposes

Land and Water Conservation Fund

Amounts transferred to the Fund are available, pursuant to appropriation acts, for both Federal and State land and water conservation purposes. At least 40 percent of annual appropriations must be for Federal activities of the National Park Service, the Bureau of Land Management, the Forest Service, and the Fish and Wildlife Service. Funds appropriated to the States are allocated on the basis of statutory formulae and criteria.

The Administration stated in the budget for fiscal year 1983 that it planned to propose legislation that would eliminate the earmarking of receipts from recreation fees and surplus property sales to the Land and Water Conservation Fund. In fiscal 1983, prior year grants will be funded from unobligated grant funds deferred in fiscal 1982.

Boating Fund

Fund purposes.—Amounts in the Fund are available, as provided in appropriations acts, for making expenditures after September 30, 1980, and before April 1, 1984, as provided in section 26 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1476). Under section 26 of the Federal Boat Safety Act, the Secretary of Transportation may allocate and distribute amounts from the fund to any State that has an accepted State recreational boating safety and facilities improvement program, if that program meets certain standards and the State provides matching funds.

Available Fund amounts are allocated and distributed under the recreational boating safety programs and the facility improvement programs as follows: ⅓ allocated equally among eligible States, ⅓ allocated among eligible States who maintain an approved State vessel numbering system according to number of vessels, and ⅓ allocated to eligible States according to the amount of State funds expended or obligated for State boating safety programs or boating facility improvement programs.

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[4] Approved September 13, 1964.

Study.—The Secretary of the Treasury, after consultation with the Secretary of Transportation, is required to conduct a study to determine the portion of the revenue from fuel taxes which is attributable to fuel used in recreational motorboats. The Secretary is to report the findings to the Congress no later than October 14, 1982.

K. Sporting Goods and Firearms Excise Taxes

1. Excise tax on fishing equipment

Present Law

An excise tax of 10 percent of the sales price is imposed on the sale of fishing rods, creels, reels, artificial lures, baits and flies (including parts and accessories of such articles) by a manufacturer, producer, or importer (sec. 4161(a)).

Legislative History

The Excise Tax Reduction Act of 1965 [1] repealed the 10-percent excise taxes on sales of sporting equipment used for badminton, billiards and pool, bowling, skeet, cricket, croquet, curling, deck tennis, golf, lacrosse, polo, skiing, squash, table tennis and lawn tennis. The fishing goods and equipment presently taxed also were taxed under the same general provision before the 1965 Act became effective.

Fund Expenditure Purposes

Revenues equivalent to the 10-percent excise tax on fishing equipment are distributed to the States in partial reimbursement of the costs they incur in various fish restoration and management projects.[2] These amounts are appropriated to reimburse States up to 75 percent of the cost of approved projects, which include research into problems of fish management and culture, surveys and inventories of fish populations, restocking waters with food and game fishes according to natural areas, and acquisition and improvement of fish habitat that provide access for public use. The amount of assistance for these programs is determined by statutory formula and is distributed to the 50 States and the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Marianas.

[1] P.L. 89–44, effective on June 22, 1965.
[2] 16 U.S.C. § 777b.

2. Excise taxes on regular firearms and ammunition; bows and arrows

Present Law

Firearms and ammunition

An excise tax is imposed on the sale by the manufacturer, producer, or importer of (1) pistols or revolvers, at the rate of 10 percent of the sales price, and (2) firearms (other than pistols and revolvers) or shells and cartridges, at the rate of 11 percent of the sales price (sec. 4181).

Exemptions from the tax are provided for (a) firearms subject to the section 5811 tax (relating to the transfer of certain non-regular firearms, such as machine guns and short barrelled shotguns), or (b) sales to the military (sec. 4182). There are also certain recordkeeping exemptions for persons holding Federal licenses under chapter 44 of title 18 of the United States Code (sec. 4182(c)).

Bows and arrows

There is an 11-percent excise tax on the sale of any bow having a draw weight of 10 pounds or more, or of any arrow measuring 18 inches or more in length, or of any part or accessory or quiver suitable for use with such bows and arrows (sec. 4161(b)).

Table 9 below compares the excise tax rates on regular firearms and ammunition, bows and arrows, and fishing equipment.

TABLE 9.—EXCISE TAXES ON SPORTING GOODS AND REGULAR FIREARMS

Item (and Code section)	Tax rate
Fishing equipment: rods, creels, reels, and artificial lures, bait and flies (sec. 4161(a))	10 percent.
Bows and arrows and accessories (sec. 4161(b))	11 percent.
Pistols and revolvers (sec. 4181)	10 percent.
Firearms other than pistols and revolvers (sec. 4181)	11 percent.
Ammunition: shells and cartridges (sec. 4181)	11 percent.

Legislative History

Firearms and ammunitions

The firearms and ammunition excise taxes are substantially unchanged from the 1939 Code. The recordkeeping exemption (sec. 4182 (c)) was added in 1969.[1]

Bows and arrows

The excise tax on bows and arrows and related parts and accessories was enacted in 1972, effective for sales after June 30, 1974.[2]

Fund Expenditure Purposes

Amounts equivalent to the excise taxes on regular firearms and ammunition and bows and arrows are transferred to the Federal Aid to Wildlife Restoration Fund, and are distributed to the States in partial reimbursement of the costs they incur in various wildlife restoration and management projects.[3]

The program in wildlife restoration is financed by appropriation of the receipts from the 10-percent excise tax on pistols and revolvers, the 11-percent excise tax on other regular firearms and ammunition, and the 11-percent excise tax on certain archery equipment. States are reimbursed up to 75 percent of the cost of approved projects in the selection and restoration of land and water areas adaptable as feeding, resting or breeding places for wildlife, which may include research into problems of wildlife resources and management, surveys and inventories of wildlife populations, and acquisition and improvement of wildlife habitat. Funds are also available for development of hunter training and target ranges. A statutory formula determines the distribution of assistance under this program among the 50 States and District of Columbia, Puerto Rico, Guam, the Virgin Islands, and the Northern Marianas.

[1] P.L. 91–128, approved November 26, 1969.
[2] P.L. 92–588, approved October 25, 1972.
[3] 16 U.S.C. § 669b.

3. Excise taxes on non-regular firearms

Present Law

There are special excise taxes imposed to regulate the production of machine guns, destructive devices (e.g., bombs, grenades, mines, etc.), and certain other firearms (e.g., shotguns or rifles under a certain length and certain concealable weapons). These taxes consist of occupational taxes of $500 per year on importers and manufacturers and $200 per year on dealers (sec. 5801); transfer taxes of $200 per transfer generally and $5 per transfer for certain concealable weapons under section 5845(e) (sec. 5811); and a making tax of $200 per firearm (sec. 5821).

In addition, importers, manufacturers, or dealers in certain concealable weapons only are subject (under sec. 5845(e)) to occupational taxes as follows: $25 per year per place of business for importers and manufacturers; and $10 per year per place of business for dealers.

Table 10 shows the specific tax rates for non-regular firearms.

TABLE 10.—EXCISE TAXES ON NON-REGULAR FIREARMS

Item (and Code section)	Tax rate
Occupational taxes (sec. 5801):[1]	
Importers	$500 per year.
Manufacturers	$500 per year.
Dealers	$200 per year.
Transfer taxes (sec. 5811):	
Generally	$200 per transfer.
Certain concealable weapons (sec. 5845(e))	$5 per transfer.
Making tax (sec. 5821)	$200 per firearm.

[1] Importers, manufacturers, or dealers in certain concealable weapons only are taxed (under sec. 5845(e)) as follows: $25 per year per place of business for importers and manufacturers; and $10 per year per place of business for dealers

Legislative History

The taxes on non-regular firearms were last amended by the Gun Control Act of 1968.[1] That Act included entirely new provisions governing the manufacture, importation, and transfer of these firearms.

Before the 1968 Act, the annual occupational tax (sec. 5801) was imposed on pawnbrokers at a special $300 rate rather than at the rate generally applicable to dealers. The occupational tax and the transfer taxes were first enacted in 1934, and have been imposed continuously since that time. The making tax was included in the 1939 Code.

[1] P.L. 90-618, approved October 22, 1968.

L. Communications (Telephone) Excise Tax

Present Law

A 1-percent excise tax is imposed on amounts paid for local telephone service, toll telephone service and teletypewriter exchange service (sec. 4251). The tax is paid by the person who pays for service to the person rendering the service, who in turn remits the tax to the general fund of the Treasury.

Exemptions from the tax are provided for communications services furnished to news services (except local telephone service to news services), international organizations, the American National Red Cross, servicemen in combat zones, nonprofit hospitals and educational organizations, and State and local governments. Other exemptions include amounts paid for installation charges and for certain calls from coin-operated telephones (sec. 4253).

This excise tax is scheduled to terminate, effective with respect to amounts paid pursuant to bills first rendered on or after January 1, 1985.

Legislative History

An excise tax on telephone service has been in effect in every year since 1941.[1] In the Excise Tax Reduction Act of 1965, the 10-percent tax on local and long distance telephone service and teletypewriter exchange service was scheduled to be reduced from 10 percent to 3 percent after December 31, 1965, and by an additional 1 percentage point in each successive year until there would have been no tax effective on January 1, 1969. However, the scheduled reduction in tax rates was rescinded in the Tax Adjustment Act of 1966,[2] and a revised phaseout was scheduled to go into effect on January 1, 1970. This also was deferred, and a one-percent-per-year phaseout went into effect on January 1, 1973.

In 1973, the rate of tax declined from 10 percent to 9 percent as the first step in a schedule according to which the rate of tax was to decline by one percentage point per year and thus to expire as of January 1, 1982. However, the Omnibus Reconciliation Act of 1980 delayed the repeal by one year until January 1, 1983; and the Economic Recovery Tax Act of 1981 further delayed repeal for two additional years, or until January 1, 1985.

A 10-percent tax on telegraph service, a 10-percent tax on private communications (intercom) service, and an 8-percent tax on wire and equipment service (such as stock quotation and information services) were repealed in the Excise Tax Reduction Act of 1965.

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[1] A tax on toll telephone service originated in 1914, with the tax on a per-message basis. This tax was repealed and reimposed several times until being changed to a 10-percent tax in 1941. The toll telephone tax rate was 20 percent for 1942–1943 and 25 percent from 1944–1954. The tax on other telephone service originated in 1941 at 10 percent, and was 15 percent from 1944–1954.

[2] P.L. 89–368, approved March 15, 1966.

M. Wagering Excise Taxes

Present Law [1]

A two-percent excise tax is imposed on the amount of certain wagers. For this purpose, a wager means (1) a wager placed with a person who is in the business of accepting wagers on the outcome of a sports event or contest, (2) a wager with respect to a sporting event or contest placed in a wagering pool conducted for profit, and (3) a wager placed in a lottery conducted for profit (including the numbers game, policy, and similar types of wagering). The tax applies whether or not the wagers are authorized by State law. However, this excise tax is not imposed on (1) wagers placed with a parimutuel wagering enterprise licensed under State law, (2) wagers placed in coin-operated gaming devices, such as slot machines, and (3) State-conducted wagering, such as sweepstakes and lotteries (secs. 4401–4404, 4421–4424).

Every person engaged in the business of accepting wagers is liable for the tax with respect to wagers which are placed with such person and which are subject to the tax.

Under present law, an occupational tax of $500 per year is imposed on each person who is liable for the two-percent excise tax on wagers and on each person who is engaged in receiving wagers for or on behalf of such person (secs. 4411–4414).

Revenues from these excise taxes on wagering go into the general fund of the Treasury.

Legislative History

The two-percent excise tax and the $500 occupational tax have been in effect since December 1, 1974.[2] Between 1951 and 1974, the tax on wagering was imposed at a rate of 10 percent and the occupational tax was $50.

Before enactment of the Revenue Act of 1978 [3] an annual occupational tax of $250 was imposed on each slot machine and other coin-operated gaming device. The 1978 Act repealed that tax.

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[1] There is a Senate amendment to H.R. 4717, currently pending in a House-Senate conference committee, which would reduce the two-percent present law tax to 0.25 percent for wagers authorized by State law. Also, the $500 occupational tax under present law would be reduced to $50 in the case of persons authorized by State and local law to accept wagers in a wagering business authorized by State law. Otherwise, the present two-percent and $500 taxes would continue to apply.

[2] P.L. 93–499, approved October 29, 1974.

[3] P.L. 95–600, approved November 6, 1978.

N. Miscellaneous Excise Taxes

1. Penalty excise taxes; excise tax on foundation investment income

Present Law

Overview

Present law (Code chapters 41 through 44) provides for a number of excise taxes which are imposed on certain, generally tax-favored, organizations, if they engage in specified transactions or activities, or if they fail to take particular required actions. These excise tax sanctions are imposed on public charities (sec. 4911), private foundations (secs. 4941–4947), black lung benefit trusts (secs. 4951–4953),[1] qualified pension, etc., plans (secs. 4971–4975), and real estate investment trusts (sec. 4981).

In addition, private foundations are subject to an excise tax on net investment income (secs. 4940 and 4948).

Lobbying by public charities

Present law imposes an excise tax on certain lobbying activities of public charities. A tax-exempt public charity may generally elect to apply an "expenditures test" to its activities carried on to influence legislation (sec. 501 (h)).[2] An electing organization that exceeds either an overall limitation on all lobbying expenditures in a taxable year, or a separate limitation on expenditures for grass roots lobbying,[3] is subject to an excise tax of 25 percent of the amount by which the lobbying expenditures or grass roots expenditures exceed the applicable limit (sec. 4911).

Permitted lobbying expenditures for a year are limited to the lesser of $1 million, or a stated percentage of the organization's exempt purpose expenditures for the year. No more than one-fourth of the permitted lobbying expenditures may be for grass roots lobbying.

Private foundations

Prohibited transactions, etc.—Tax-exempt private foundations are required to be operated exclusively for specified charitable purposes (sec. 501(c)(3)). To insure that the activities of private foundations are consistent with the charitable purposes underlying the exemption, present law imposes a two-tier excise tax structure which acts to substantially restrict noncharitable activities. Under the structure (secs. 4941–4947), a first-tier excise tax is imposed automatically if a private

[1] For a description of the excise tax provisions relating to black lung benefit trusts, see Part IV. F., "Black Lung Trust Fund Excise Taxes."

[2] A public charity not electing the "expenditures test" is subject to a "substantial part test" under which tax exemption is denied if a substantial part of the activities of the organization is carrying on propaganda, or otherwise attempting, to influence legislation (sec. 501(c)(3)).

[3] Grass roots lobbying means expenditures for the purpose of influencing legislation through an attempt to affect the opinions of the general public (or any segment thereof).

foundation engages in a prohibited act or fails to take a required action. A much larger second-tier excise tax is imposed for a failure to correct the prohibited act or take the required action within a "correction period." The correction period generally ends only after a court decision as to whether the taxpayer would be liable for the second-tier tax becomes final.

Excise tax sanctions under the two-tier structure apply if a private foundation: (1) is party to an act of self-dealing (for example, by loaning money to a substantial contributor); (2) fails, in any year, to make charitable distributions equal to a specified percentage of its net investment assets; (3) retains stock holdings sufficient to maintain control of a business (either alone or together with certain related persons); (4) invests its assets in such a manner as to jeopardize carrying out its charitable purposes; or (5) makes certain "taxable expenditures" (including expenditures for lobbying or electioneering, as well as grants made to individuals or to organizations that are not public charities unless certain requirements are met).

Excise tax on foundation investment income.—A private foundation also is subject to an excise tax equal to 2 percent of the foundation's net investment income for the taxable year (sec. 4940). A foreign organization which is a private foundation is subject to a 4-percent excise tax on gross investment income for the taxable year derived from sources within the United States (sec. 4948).

Qualified pension, etc., plans

Minimum funding.—To insure that a tax-qualified pension plan will accumulate sufficient assets to pay promised benefits, present law generally imposes minimum funding (i.e., contribution) requirements on an employer maintaining such a plan (sec. 412). Present law also provides a two-tier excise tax structure to enforce payment of the required contributions (sec. 4971). A first-tier excise tax equal to five percent of a plan's funding deficiency is imposed automatically if an employer fails to make the minimum contribution. A second-tier excise tax equal to 100 percent of the deficiency is then imposed if the employer fails to make up the required contribution within a statutory correction period.

Prohibited transactions.—Present law requires that a tax-qualified plan be maintained for the exclusive benefit of employees and their beneficiaries (sec. 401(a)). To enforce this exclusive benefit rule and to preclude self-dealing transactions between a plan and certain disqualified persons, present law also imposes a two-tier excise tax on prohibited transactions (sec. 4975).[4] However, no excise tax is applied if the transaction qualifies for a statutory exemption, or if the Secretary of Labor administratively exempts the transaction from the prohibited transaction rules.

Under the two-tier excise tax system, a first-tier tax of 5 percent is imposed automatically if a plan engages in a prohibited transaction; a second-tier tax of 100 percent is imposed if the transaction is not corrected within the statutory correction period.

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[4] Disqualified persons include plan administrators and trustees, contributing employers, employees and owners of contributing employers, persons providing services to the plan, and employee organizations whose members are covered by the plan.

In general, the transactions subject to the two-tier excise tax are (1) the sale or exchange (or leasing) of any property between a plan and a disqualified person; (2) the lending of money or other extension of credit between a plan and a disqualified person; (3) the furnishing of goods, services, or facilities between a plan and a disqualified person; and (4) the transfer of plan income or assets to a disqualified person (or the use of such income or assets by or for the benefit of a disqualified person). In addition, any disqualified person who is a fiduciary with respect to the plan is prohibited (1) from dealing with plan income or assets in his own interest and (2) from receiving any consideration from any party dealing with the plan in connection with a transaction involving plan income or assets.

Excess contributions and accumulations.—Present law provides limits on annual contributions to an individual retirement account, annuity, or bond (IRA) (sec. 219). Limits are also imposed on contributions to a tax-qualified pension, etc., plan on behalf of an owner-employee (sec. 401(d)(5)).[5] In addition, present law limits the amount which may be contributed to custodial accounts investing in regulated investment company stock (e.g., a mutual fund) to provide tax-favored retirement savings for teachers or for employees of eligible tax-exempt organizations (secs. 403(b) and 415).

To enforce these contribution limits, present law imposes a six-percent excise tax on contributions in excess of the applicable limit (secs. 4972 and 4973). No excise tax is applied, however, if the excess and any income attributable to the excess is withdrawn before the due date (including extensions) for filing the tax return for the taxable year for which the contribution was made.

In addition, because IRAs are intended to provide tax-favored retirement savings, present law requires that distributions from an IRA commence no later than the year in which an individual attains age 70½, and that the balance in the IRA be distributed ratably over the life of the individual or the joint lives of the individual and his spouse. If for any year the amount distributed from the IRA is less than that required under these minimum distribution rules, present law imposes a 50-percent excise tax on the amount of the underpayment (sec. 4974).

[5] An owner-employee is a sole proprietor or a partner whose partnership interest exceeds 10 percent.

Real estate investment trusts

Real estate investment trusts (REITs) are provided the same general conduit treatment that is applied to mutual funds. Thus, if a trust meets the qualifications for REIT status, the income of the REIT which is distributed to investors generally is taxed to them without being subjected to tax at the REIT level (sec. 857). The policy underlying this conduit treatment generally requires that investors be taxed currently on the income earned by the REIT. However, under certain circumstances, actual payment of a dividend declared by a REIT for a taxable year may be delayed until 12 months after the close of the taxable year (sec. 858). Repeated and substantial use of this one-year delay tends to defeat the underlying policy that investors be taxed currently on REIT income.

Present law (sec. 4981) imposes an excise tax on late distributions from REITs. In order to avoid the tax, a REIT generally must distribute at least 75 percent of its taxable income by the close of its taxable year. The rate of tax is 3 percent of the difference between 75 percent of the REIT's income and the lesser amount actually distributed.

Legislative History

Lobbying by public charities

The excise tax provisions relating to lobbying expenditures by public charities electing the expenditures test were enacted in the Tax Reform Act of 1976.

Private foundations

The two-tier excise tax structure applicable to private foundations was enacted in the Tax Reform Act of 1969. Several of the Code provisions making up the excise tax structure have been amended since enactment. In the Tax Reform Act of 1969, the excise tax on the net investment income of a private foundation was originally set at four percent. The Revenue Act of 1978 reduced the rate to two percent for domestic foundations for taxable years beginning after September 30, 1977.

Qualified pension, etc., plans

The excise tax sanctions relating to tax-qualified pension, etc., plans, IRAs, and custodial accounts were enacted in the Employee Retirement Income Security Act of 1974 (ERISA). Later Acts amended the prohibited transaction rules as they apply to certain exempted transactions involving employer securities under employee stock ownership plans (ESOPs).

Real estate investment trusts

The excise tax on late distributions from REITs was enacted in the Tax Reform Act of 1976.

2. Deep seabed excise tax on certain minerals (and Deep Seabed Revenue Sharing Trust Fund)

Present Law

Overview

On June 28, 1980, Congress enacted the Deep Seabed Hard Mineral Resources Act (the Resources Act, P.L. 96–283), one title of which is the Deep Seabed Hard Mineral Removal Tax Act of 1979 (the Tax Act). The Resources Act is intended to perform several functions. First, it is intended to encourage the successful conclusion of an international deep seabed treaty and to establish an interim program to regulate the exploration for, and commercial recovery of, the hard mineral resources of the deep seabeds by U.S. persons pending such a treaty. It is also intended to provide for the establishment of an international revenue sharing fund, which will be used for sharing with the signatories of any international deep seabed treaty to which the United States agrees. The Resources Act helps provide for such an international revenue-sharing fund by establishing an interim trust fund in the Treasury into which Tax Act receipts will be deposited. The trust fund proceeds will, in turn, be used to help discharge the obligations imposed on the United States under any international deep seabed treaty the United States joins.

Excise tax on certain hard minerals

The Tax Act added sections 4495 through 4498 to the Internal Revenue Code. These sections impose an excise tax on the removal from the deep seabed of certain hard mineral resources pursuant to a deep seabed permit issued under the Resources Act. In general, a deep seabed permit is a permit issued under the Resources Act authorizing the holder thereof to engage in commercial recovery activities with respect to hard mineral resources on or under deep seabeds. Under the Resources Act, no such permit may be issued which authorizes commercial recovery to commence prior to 1988.

In general, hard mineral resources are mineral nodules lying on or just below the surface of deep seabeds, which contain one or more minerals at least one of which is manganese, nickel, cobalt, or copper. Deep seabeds are, in general, areas outside the continental shelf of any nation. Under the Tax Act, if a person removes a hard mineral resource from the deep seabed pursuant to a deep seabed permit, a tax is imposed on the permit holder equal to 3.75 percent of 20 percent (or 0.75 percent) of the fair market value of the commercially recoverable minerals removed. In general, fair market value is determined as of the removal date and as if the minerals were separated from the deposit.

The Tax Act will terminate on the earlier of the date on which an international deep seabed treaty takes effect with respect to the United States, or 10 years after the date of enactment of the Tax Act (June 28, 1980). The Tax Act was effective on January 1, 1980. No revenue under the Tax Act is expected to be generated prior to 1988.

Legislative History

The deep seabed and trust fund provisions of the Tax Act have not been amended since enactment.

Deep Seabed Revenue Sharing Trust Fund

Section 403 of the Deep Seabed Resources Act established a Deep Seabed Revenue Sharing Trust Fund in the Treasury. This is the interim Treasury fund referred to above. This fund is intended to be the depository for an amount of money equal to total collections under the Tax Act. Amounts deposited in the fund must be invested in interest bearing obligations of the United States. All expenditures from the fund during its existence must be for the purpose of discharging the obligations of the United States under any international deep seabed treaty to which the United States is a party. If the United States is not a participant in such a treaty by the time the Tax Act terminates, the fund will be available for such purposes as Congress may provide.

3. Excise tax on foreign insurance policies

Present Law

Under present law, an excise tax is imposed on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer to or for or in the name of a domestic corporation or partnership, or a U.S. resident individual with respect to risks wholly or partly within the United States, or to or for or in the name of any foreign person engaged in business within the United States with respect to risks within the United States (sec. 4371). The excise tax is imposed at the rate of: (1) 4 cents on each dollar (or fraction thereof) of the premium paid on the policy of casualty insurance or the indemnity bond; (2) 1 cent on each dollar (or fraction thereof) of the premium paid on a policy of life, sickness, or accident insurance, or annuity contracts on the lives or hazards to the person of a U.S. citizen or resident, unless the insurer is subject to tax under section 819 (relating to the taxation of foreign life insurance companies); and (3) 1 cent on each dollar (or fraction thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under (1) or (2). Revenues from the tax are deposited in the general fund of the Treasury.

The tax is, however, waived in a number of United States tax treaties, such as in the United States-United Kingdom Income Tax Treaty, and in the U.S. model income tax treaty. Also, the Code (sec. 4373) provides exemptions from the tax in the case of (1) policies signed or countersigned by an officer or agent of the insurer in a State or the District of Columbia, within which such insurer is authorized to do business, or (2) any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check issued by the United States.

Section 4374, as amended by the Tax Reform Act of 1976, provides that the excise tax imposed by section 4371 shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the taxes, or for whose use or benefit the same are made, signed, issued, or sold. Thus, the liability for the tax falls jointly on all the parties to the insurance transaction.

Current Treasury Regulations (Treas. Reg. § 46.4374–1), which do not reflect the changes made by the Tax Reform Act of 1976, provide that the tax is to be remitted by the U.S. person who actually transfers the premium to the foreign insurer or reinsurer or to any nonresident agent, solicitor, or broker.

Legislative History

The Tax Reform Act of 1976 [1] amended section 4371 to conform to the fact that the tax imposed by that section was to be paid by return as provided in regulations, and not by stamps, which had been an alternative method of payment and was still referred to in the statute. Also, to reflect payment by return rather than by stamp, the present section 4374 was enacted corresponding to the then section 4384, which was repealed.

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[1] P.L. 94–455, approved October 4, 1976.

APPENDIX:
SCHEDULE OF PRESENT FEDERAL EXCISE TAX RATES

Tax (and Code section)	Tax rates
A. Alcohol Excise Taxes	
Alcoholic beverage taxes:	
Distilled spirits (sec. 5001)	$10.50 per proof gallon.
Wines (sec. 5041):	
Not more than 14 percent alcohol	17 cents per wine gallon.
14–21 percent alcohol	67 cents per wine gallon.
21–24 percent alcohol [1]	$2.25 per wine gallon.
Artificially carbonated wines	$2.40 per wine gallon.
Champagne and other sparkling wines	$3.40 per wine gallon.
Beer (sec. 5051)	$9 per barrel (31 gallons) generally.[2]
Alcohol occupational taxes:	
Brewers (sec. 5091)	$110 a year; $55 for less than 500 barrels a year.
Still manufacturers (sec. 5101)	$55 a year, plus $22 per still.
Wholesale dealers (sec. 5111):	
Liquors and wines	$255 a year.
Beer	$123 a year.
Retail dealers [3] (sec. 5121):	
Liquors and wines	$54 a year.
Beer	$24 a year.

[1] Wines containing more than 24 percent alcohol are taxed as distilled spirits.
[2] $7 per barrel for certain small brewers.
[3] In addition, there is a tax of $4.50 for each month in which sales are made ($2.20 per month when *only* sales of beer or wine are made) for every limited retail dealer—i.e., certain fraternal and civic organizations and concessionaries at fairs and carnivals (sec. 5121(c)).

Tax (and Code section)	Tax rates
B. Tobacco Excise Taxes	
Cigars (sec. 5701(a)):	
Small cigars (weighing no more than 3 pounds per thousand)	75 cents per thousand.
Large cigars (more than 3 pounds per thousand)	8½ percent of wholesale price, but not more than $20 per thousand.
Cigarettes (sec. 5701(b)):	
Small cigarettes (weighing no more than 3 pounds per thousand)	$4 per thousand (8 cents per pack).
Large cigarettes (weighing more than 3 pounds per thousand)	$8.40 per thousand.
Cigarette papers and tubes:	
Cigarette papers (sec. 5701 (c))	½ cent for each 50 papers.
Cigarette tubes (sec. 5701 (d))	1 cent for each 50 papers.

Tax	Tax Rates	
	Pre-Oct. 1, 1984 rate	Oct. 1, 1984 rate
C. Highway Trust Fund Excise Taxes		
Petroleum products:		
Gasoline (sec. 4081)	4 cents/gallon	1½ cents/gallon.
Diesel fuel (sec. 4041 (a))	4 cents/gallon	1½ cents/gallon.
Special motor fuel (sec. 4041 (b))	4 cents/gallon	1½ cents/gallon.
Lubricating oil (sec. 4091)	6 cents/gallon	6 cents/gallon.
Trucks and truck parts:		
Trucks and trailers (sec. 4061(a))	10 percent of mfrs. price.	5 percent of mfrs. price.
Truck parts and accessories (sec. 4061(b))	8 percent of mfrs. price.	5 percent of mfrs. price.
Tires, tubes and tread rubber (sec. 4071):		
Tires for highway vehicles	9.75 cents/pound	4.875 cents/pound.
Laminated tires	1 cent/pound	1 cent/pound.
Other tires	4.875 cents/pound	4.875 cents/pound.
Inner tubes	10 cents/pound	9 cents/pound.
Tread rubber	5 cents/pound	No tax.
Use tax on heavy highway vehicles (sec. 4481)	$3 per 1,000 pounds per year, if more than 26,000 pounds.	No tax.

Tax (and Code section)	Tax rates
D. Aviation Excise Taxes	
Air passenger ticket tax (sec. 4261)	5 percent of air fare.
Fuels tax for noncommercial (general) aviation gasoline (sec. 4081)	4 cents per gallon.
Aircraft tires tax (nonhighway tire rate) (sec. 4071(a)(1)(2))	4.875 cents/pound.
Aircraft tubes tax (sec. 4071(a)(3))	10 cents/pound.
E. Environmental Excise Taxes	
Hazardous Substances Response Trust Fund Taxes:	
Crude oil tax (sec. 4611)	0.79 cents per barrel.
Excise taxes on chemicals (sec. 4661): (For tax rates, see table 6 in Part IV.)	
Tax for Post-Closure Liability Trust Fund:	
Tax on hazardous waste (sec. 4681)	$2.13 per dry weight ton (effective Oct. 1, 1983).
F. Black Lung Disability Trust Fund Taxes:	
Coal excise tax (sec. 4121)	$1 per ton for coal from underground mines and 50 cents per ton for coal from surface mines (but no more than 4 percent of the coal's price).[4]
Penalty taxes on black lung benefit trusts (secs. 4951, 4952, and 4953)	Varying rates on certain activities (See *Penalty excise taxes*, N.1., below.)
G. Gas Guzzler Excise Tax (sec. 4064) (For applicable tax rates by model year, see table 7 in Part IV.)	
H. Crude Oil Windfall Profit Tax (secs. 4986 and 4987):	
Tier one oil	70 percent; 50 percent for independent producers.
Tier two oil (stripper oil;[5] Petroleum Reserve oil)	60 percent; 30 percent for independent producers.
Tier three oil:	
Newly discovered oil	27.5 percent for 1982, 25 percent for 1983, 22.5 percent for 1984, 20 percent for 1985 and 15 percent for 1986 and thereafter.
Heavy oil and incremental tertiary oil	30 percent.

[4] Tax does not apply to lignite.

[5] Qualified independent stripper oil is exempt beginning in 1983 (sec. 4994(g)).

Tax (and Code section)	Tax rates
I. Inland Waterways Trust Fund Tax:	
Tax on diesel and other liquid fuels by commercial cargo vessels on specified inland or intracoastal waterways (sec. 4042)	6 cents per gallon (through Sept. 30, 1983). 8 cents per gallon (Oct. 1, 1983–Sept. 30, 1985). 10 cents per gallon (Oct. 1, 1985).
J. Land and Water Conservation Fund; National Recreational Boating Safety and Facilities Improvement Fund:	
Land and Water Conservation Fund:	
Gasoline and special fuels used in motorboats (secs. 4081 and 4041(b))	4 cents per gallon generally.
National Recreational Boating Safety and Facilities Improvement Fund:	
Gasoline and special fuels used in motorboats (secs. 4081 and 4041(b))	4 cents per gallon (for fiscal years 1981–83, up to $20 million per year).
K. Sporting Goods and Firearms Excise Taxes	
1. Sporting goods:	
Fishing equipment (rods, reels, creels, and artificial lures baits, and flies) (sec. 4161(a))	10 percent of mfrs. price.
Bows and arrows (sec. 4161(b))	11 percent of mfrs. price.
2. Regular firearms and ammunition (sec. 4181):	
Pistols and revolvers	10 percent of mfrs. price.
Firearms other than pistols and revolvers	11 percent of mfrs. price.
Ammunition (shells and cartridges)	11 percent of mfrs. price.

Tax (and Code section)	Tax rates
3. Non-regular firearms:	
Occupational taxes (sec. 5801):[6]	
Importers	$500 per year.
Manufacturers	$500 per year.
Dealers	$200 per year.
Transfer taxes (sec. 5811):	
Generally	$200 per transfer.
Certain concealable weapons (sec. 5845 (e))	$5 per transfer.
Making tax (sec. 5821)	$200 per firearm.
L. Communications (Telephone) Excise Tax	
Local and toll telephone and teletypewriter services (sec. 4251)	1 percent of amount paid (through Dec. 31, 1984).
M. Wagering Excise Taxes	
Certain wagers (sec. 4401)	2 percent of amount of wager.
Occupational tax (sec. 4411)	$500 per year on person engaged or employed in business of accepting wagers.
N. Miscellaneous Excise Taxes	
1. Penalty excise taxes:	
Lobbying expenditures by public charities (sec. 4911)	25 percent of excess lobbying expenditures.
Private foundation activities:	
Self-dealing (sec. 4941)	*Initial tax.*—5 percent of the amount of self-dealing on the self-dealer; 2½ percent on foundation manager (up to $10,000). *Additional tax.*—If the self-dealing is not corrected within the correction period, there is a tax of 200 percent of the amount on the self-dealer; also, a tax of 50 percent on a foundation manager (up to $10,000).

[6] Importers, manufacturers, or dealers in certain concealable weapons only are taxed (under sec. 5845(e)) as follows: $25 per year per place of business for importers and manufacturers; and $10 per year per place of business for dealers.

Tax (and Code section)	Tax rates
Private foundation activities (Cont.):	
Failure to distribute income (sec. 4942)	*Initial tax.*—15-percent tax on the amount remaining undistributed at the beginning of the second (or succeeding) taxable year. *Additional tax.*—If not corrected, there is an additional tax of 100 percent of the amount not distributed at the end of the correction period.
Excess business holdings (sec. 4943)	*Initial tax.*—5-percent tax on the value of the excess holdings. *Additional tax.*—If not corrected, there is an additional tax of 200 percent of the excess holdings at the end of the correction period.
Investments which jeopardize charitable (exempt) purpose (sec. 4944)	*Initial taxes.*—5-percent tax on the foundation; also, a 5-percent tax on the foundation manager (up to $5,000). *Additional taxes.*—25-percent tax on foundation if the investment is not removed from jeopardy within the correction period; also, a 5-percent tax is imposed on the foundation manager (up to $10,000).
Taxable expenditures (sec. 4945)	*Initial taxes.*—10-percent tax on the foundation on each taxable expenditure; also, a 2½-percent tax on the foundation manager (up to $5,000). *Additional taxes.*—If not corrected, there is a tax of 100 percent on the foundation on the taxable expenditure; also, a tax of 50 percent on the foundation manager (up to $10,000).

Tax (and Code section)	Tax rates
Black lung benefit trusts:	
Self-dealing (sec. 4951)	*Initial taxes.*—10-percent tax on self-dealers of the amount of self-dealing; 2½-percent tax on trustee. *Additional taxes.*—If not corrected, a tax of 100 percent is imposed on self-dealer; 50-percent tax on trustee.
Taxable expenditures (sec. 4952)	*Initial taxes.*—10-percent tax on the trust; 2½-percent tax on trustee. *Additional taxes.*—If not corrected, a tax of 100 percent is imposed on the fund; 50-percent tax on trustee.
Excess contributions to benefit trust (sec. 4953)	5 percent of excess contribution to the trust.
Qualified pension, etc., plans:	
Failure to meet minimum funding standards (sec. 4971)	*Initial tax.*—Tax of 5 percent of accumulated funding deficiency is imposed on employer. *Additional tax.*—If not corrected, a tax of 100 percent is imposed on employer.
Excess contributions for self-employed individuals (sec. 4972)	6-percent tax on employer of excess contributions to the plan.
Excess contributions to IRAs, etc. (sec. 4973)	6-percent tax on individual of excess contributions to the plan.

Tax (and Code section)	Tax rates
Certain accumulations in IRAs, etc. (sec. 4974)--------	50-percent tax on payee of the amount by which the minimum required to be distributed during the year exceeds the amount actually distributed during the year.
Prohibited transactions (sec. 4975)---	*Initial tax.*—5-percent tax on disqualified person of the amount involved in the prohibited transaction. *Additional tax.*—If not corrected, a tax of 100 percent is imposed.
Real estate investment trusts (sec. 4981)------	3 percent on certain REIT taxable income not distributed during the taxable year.
2. Excise tax on private foundations:	
Domestic foundations (sec. 4940)----------	2 percent of net investment income.
Foreign foundations (sec. 4948)----------	4 percent of gross investment income from sources within U.S.
3. Deep seabed excise tax on certain hard minerals (mineral nodules containing manganese, nickel, cobalt, or copper) (sec. 4495)----------	3.75 percent of 20 percent (or 0.75 percent) of fair market value of commercially recoverable minerals.
4. Excise tax on foreign insurance policies (sec. 4371)--------	(a) *Casualty insurance and indemnity bonds.*—4 cents per dollar of premium paid; (b) *Life insurance, sickness and accident policies, and annuity contracts.*—1 cent per dollar premium paid (unless the insurer is subject to tax under sec. 819); and (c) *Reinsurance.*—1 cent per premium paid for reinsurance under (a) or (b).

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